

EXHIBIT B26

Gregory B. Diette, M.D.

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UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

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IN RE JOHNSON & JOHNSON) MDL No.
TALCUM POWDER PRODUCTS) 16-2738 (FLW)(LHG)
MARKETING SALES PRACTICES,)
AND PRODUCTS LIABILITY)
LITIGATION)
)
THIS DOCUMENT RELATES TO)
ALL CASES)

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VIDEOTAPED DEPOSITION OF

GREGORY B. DIETTE, M.D.

TOWSON, MARYLAND

TUESDAY, APRIL 9, 2019

8:58 A.M.

Reported by: Leslie A. Todd

Gregory B. Diette, M.D.

<p style="text-align: center;">Page 2</p> <p>1 Deposition of GREGORY B. DIETTE, M.D., held at 2 the: 3 4 5 SHERATON BALTIMORE NORTH HOTEL 6 903 Dulaney Valley Road 7 Towson, Maryland 21204 8 9 10 11 12 13 14 15 16 Pursuant to notice, before Leslie Anne Todd, 17 Court Reporter and Notary Public of the State of 18 Maryland, who officiated in administering the oath 19 to the witness. 20 21 22 23 24 25</p>	<p style="text-align: center;">Page 4</p> <p>1 APPEARANCES (Continued): 2 3 CYNTHIA L. GARBER, ESQUIRE 4 ROBINSON CALCAGNIE, INC. 5 19 Corporate Plaza Drive 6 Newport Beach, California 92660 7 (949) 720-1288 8 9 NATHAN D. FINCH, ESQUIRE 10 MOTLEY RICE LLC 11 401 9th Street, NW 12 Suite 1001 13 Washington, D.C. 20004 14 (202) 232-5507 15 16 ON BEHALF OF THE JOHNSON & JOHNSON DEFENDANTS: 17 ALLISON M. BROWN, ESQUIRE 18 RICHARD M. HEASLIP, ESQUIRE 19 WEIL, GOTSHAL & MANGES LLP 20 17 Hutfish Street, Suite 201 21 Princeton, New Jersey 08542-3792 22 (609) 986-1104 23 24 25</p>
<p style="text-align: center;">Page 3</p> <p>1 A P P E A R A N C E S 2 3 ON BEHALF OF THE PLAINTIFFS: 4 MICHELLE PARFITT, ESQUIRE 5 ADAM K. ROSEN, ESQUIRE 6 ASHCRAFT & GEREL, LLP 7 1825 K Street, N.W. 8 Suite 700 9 Washington, D.C. 20006 10 (202) 783-6400 11 12 CHRISTOPHER V. TISI, ESQUIRE 13 LEVIN PAPANTONIO THOMAS MITCHELL 14 RAFFERTY PROCTOR, P.A. 15 316 South Baylen Street 16 Pensacola, Florida 32502 17 (850) 435-7000 18 19 DENNIS M. GEIER, ESQUIRE 20 COHEN PLACITELLA ROTH, PC 21 127 Maple Avenue 22 Red Bank, New Jersey 07701 23 (732) 747-9003 24 25</p>	<p style="text-align: center;">Page 5</p> <p>1 APPEARANCES (Continued): 2 3 KATHERINE MCBETH, ESQUIRE 4 DRINKER BIDDLE & REATH, LLP 5 One Logan Square, Suite 2000 6 Philadelphia, Pennsylvania 19103-69896 7 (215) 988-2706 8 9 JESSICA D. MILLER, ESQUIRE 10 SKADDEN, ARPS, MEAGHER & FLOM, LLP 11 1440 New York Avenue, N.W. 12 Washington, D.C. 20005 13 (202) 371-7000 14 15 ON BEHALF OF THE PCPC: 16 THOMAS T. LOCKE, ESQUIRE 17 SEYFARTH SHAW LLP 18 975 F Street, N.W. 19 Washington, D.C. 20004-1454 20 (202) 463-2400 21 22 ALSO PRESENT: 23 DANIEL HOLMSTOCK, Videographer 24 25</p>

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3	DIETTE DEPOSITION EXHIBITS	PAGE	3	THE VIDEOGRAPHER: We are now on the	
4	No. 28 Table 2.8 Epidemiologic studies of		4	record, and my name is Daniel Holmstock. I am the	
5	asbestos exposure and ovarian cancer		5	videographer for Golkow Litigation Services.	
6	(and, for comparison, lung cancer		6	Today's date is April 9th, 2019, and the time on	
7	and mesothelioma) 396		7	the video screen is 8:58 a.m.	
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9	Body Powder Use and Ovarian Cancer:		9	the Sheraton Baltimore North Hotel, at 903 Dulaney	
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12	No. 30 Article entitled "Perineal Talc Use		12	Marketing, Sales Practices and Products Liability	
13	and Ovarian Cancer, A Systematic		13	Litigation, MDL No. 2738, and is pending before	
14	Review and Meta-Analysis" 416		14	the United States District Court for the Eastern	
15	No. 31 Ultrastructural Pathology article,		15	District of New Jersey.	
16	"Correlative polarizing light and		16	Our deponent today is Dr. Gregory	
17	scanning electron microscopy for		17	Diette.	
18	the assessment of talc in pelvic		18	Counsel for appearances will be noted on	
19	region lymph nodes" 427		19	the stenographic record. And our court reporter	
20	No. 32 Letter to Samuel Epstein from the		20	today is Leslie A. Todd, who will now administer	
21	Department of Health and Human		21	the oath.	
22	Services, dated April 1, 2014 431		22	GREGORY B. DIETTE, M.D.,	
23	No. 33 Facsimile dated September 30,		23	and having been first duly sworn,	
24	2004 to Luzenac America from		24	was examined and testified as follows:	
25	Richard Zazenski to Bill Ashton 437		25	DIRECT EXAMINATION	

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<p>1 BY MS. PARFITT:</p> <p>2 Q Good morning, Dr. Diette. How are you?</p> <p>3 A Good morning. Fine, thanks.</p> <p>4 Q Good. We will dispense with the usual</p> <p>5 comments with regard to a deposition. I</p> <p>6 understand you've had --</p> <p>7 THE VIDEOGRAPHER: Microphone.</p> <p>8 BY MS. PARFITT:</p> <p>9 Q All right. Now we're back on the mic.</p> <p>10 Dr. Diette, we'll dispense with the</p> <p>11 usual comments with regard to what a deposition is</p> <p>12 about. I understand you've probably had your</p> <p>13 deposition taken more than a hundred times. Is</p> <p>14 that fair?</p> <p>15 A I don't know if it's a hundred, but --</p> <p>16 but plenty enough that I think that I -- I</p> <p>17 understand the process.</p> <p>18 Q All right. The only one that I will ask</p> <p>19 you to pay some attention to is the fact that if</p> <p>20 you don't understand my question, please let me</p> <p>21 know. Otherwise, I'm going to assume you</p> <p>22 understand every question that I ask, and the</p> <p>23 answers that you're giving are truthful and</p> <p>24 accurate. Fair enough?</p> <p>25 A It is.</p>	<p>1 jury.</p> <p>2 A Sure. It's Gregory --</p> <p>3 MS. BROWN: Objection. There's no jury</p> <p>4 here.</p> <p>5 MS. PARFITT: There may be.</p> <p>6 MS. BROWN: Go ahead, Dr. Diette.</p> <p>7 THE WITNESS: My parents gave it to me,</p> <p>8 for what it's worth, but it's Gregory Bruce</p> <p>9 Diette.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Okay. Very good.</p> <p>12 Dr. Diette, what I'd like to do is mark</p> <p>13 as Exhibit 1 a notice of the deposition.</p> <p>14 (Diette Exhibit No. 1 was marked</p> <p>15 for identification.)</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Dr. Diette, if I may, Exhibit 1 is the</p> <p>18 notice of deposition. Have you seen that document</p> <p>19 before?</p> <p>20 A Yeah, I've certainly seen -- seen</p> <p>21 something just like this.</p> <p>22 Q All right. Do you see at the back of</p> <p>23 the deposition, there is a notice that -- there is</p> <p>24 a request for you to bring certain information to</p> <p>25 your deposition? Do you see that?</p>
<p>1 Q All right. Now, you're sitting here</p> <p>2 today in Towson, Maryland, in a Sheraton Hotel; is</p> <p>3 that correct?</p> <p>4 A That is.</p> <p>5 Q All right. You are normally, I believe,</p> <p>6 over at Johns Hopkins University Medical Center,</p> <p>7 correct?</p> <p>8 A That's right.</p> <p>9 Q All right. Is your department aware of</p> <p>10 the fact that you're sitting over here having a</p> <p>11 deposition taken?</p> <p>12 A I don't know if anybody knows about this</p> <p>13 today, but they wouldn't be surprised, I mean, to</p> <p>14 hear it if I told them.</p> <p>15 Q All right. They know that you</p> <p>16 frequently give depositions so they would not be</p> <p>17 surprised; is that correct?</p> <p>18 MS. BROWN: Objection to form.</p> <p>19 THE WITNESS: They -- I don't know about</p> <p>20 frequently, but they know that -- that I do give</p> <p>21 depositions.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q All right. Very good.</p> <p>24 Would you please introduce your formal</p> <p>25 God-given name for the ladies and gentlemen of the</p>	<p>1 A Yes.</p> <p>2 Q All right. Have you had a chance to</p> <p>3 review that?</p> <p>4 A I have.</p> <p>5 Q All right. How recently?</p> <p>6 A Last week sometime.</p> <p>7 Q All right. Was it provided to you by</p> <p>8 counsel?</p> <p>9 A I think that's the only way I could get</p> <p>10 it.</p> <p>11 Q Okay. Very good.</p> <p>12 Now, yesterday, perhaps early in the</p> <p>13 morning, I was also provided a copy of the</p> <p>14 Defendants' Response to the Plaintiffs' Document</p> <p>15 Requests Contained in the Notice of Oral and</p> <p>16 Videotaped Deposition.</p> <p>17 Let me show you what we will have marked</p> <p>18 as Exhibit No. 2.</p> <p>19 (Diette Exhibit No. 2 was marked</p> <p>20 for identification.)</p> <p>21 BY MS. PARFITT:</p> <p>22 Q Dr. Diette, let me present you with a</p> <p>23 copy of Exhibit No. 2.</p> <p>24 All right. Dr. Diette, my understanding</p> <p>25 is that this document, Exhibit No. 2, represents</p>

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<p>1 your responses to the requests that were 2 propounded upon you to -- for documents and other 3 materials prior to your deposition, correct? 4 MS. BROWN: Objection to the form. It 5 represents the lawyer's objections to the document 6 requests you served. 7 MS. PARFITT: Fair. 8 THE WITNESS: I -- I think Ms. Brown's 9 got it right. 10 BY MS. PARFITT: 11 Q All right. Did you -- well, let's have 12 marked the attachment to the response to 13 plaintiffs' document, which was prepared by your 14 lawyers. And let's separately mark as Exhibit 15 No. 3 the attachments, if you will. 16 A Should I pull this apart or -- or you 17 want to do that? 18 Q And for purposes of the record, 19 Exhibit 2 will represent the entire document, the 20 response to plaintiffs' request, and No. 3 will 21 represent just the attachments to the request, 22 which would be material that you, Dr. Diette, were 23 to provide. 24 (Diette Exhibit No. 3 was marked 25 for identification.)</p>	<p>1 much. 2 BY MS. PARFITT: 3 Q All right. Dr. Diette, number -- or 4 Exhibit No. 3, the first document, Supplemental 5 Materials Reviewed and Considered, did you prepare 6 this Supplemental Materials Reviewed and 7 Considered? 8 A I contributed to it, but I didn't do the 9 typing. 10 Q Okay. What does that mean when you say 11 you contributed to it? 12 A I helped to clarify what other -- 13 because this -- this looks like it's all 14 reports -- I just want to make sure what's here -- 15 reports, a couple of papers probably, and I -- I 16 helped to verify that these were also things that 17 I had -- had received and had a chance to look at. 18 Q All right. So would it be fair to say 19 that the 23 items listed on this were materials 20 that somebody typed on a list and asked that you 21 review it; is that correct? 22 MS. BROWN: Objection to the form. 23 Misstates his testimony. 24 THE WITNESS: So I think, just in terms 25 of the sequence, I mean I've gotten materials in</p>
<p style="text-align: center;">Page 19</p> <p>1 BY MS. PARFITT: 2 Q And we'll briefly just review what's 3 here, so we can move on to other areas. 4 The first page of that document 5 indicates supplemental materials reviewed and 6 considered. 7 MS. BROWN: Counsel, can we go off the 8 record for a second? 9 MS. PARFITT: Yes. 10 THE VIDEOGRAPHER: The time is 9:03. 11 We're going off the record. 12 (Pause in the proceedings.) 13 THE VIDEOGRAPHER: The time is 9:04 a.m. 14 We're back on the record. 15 MS. BROWN: Good morning. This is Ali 16 Brown for J&J. We're back on the record, having 17 taken a short break to put the cameras on both the 18 questioner and myself, and we'll proceed, of 19 course, with the camera on Dr. Diette. Thank you. 20 MS. PARFITT: Thank you. And I should 21 have asked, there's no one on the phone, is there, 22 today? 23 THE VIDEOGRAPHER: There is no phone 24 present here today. 25 MS. PARFITT: Perfect. Thank you very</p>	<p style="text-align: center;">Page 21</p> <p>1 this matter over a period of time, right. So they 2 come in dribs and drabs. And a lot of this looks 3 like some of the more recent things that came, you 4 know, because you guys have been doing 5 depositions, and some of the reports came in later 6 and so forth. So it's really -- that's how I got 7 the materials, and then this is just to make sure 8 that I had a complete list of everything that I've 9 gotten. 10 BY MS. PARFITT: 11 Q All right. And the reason I asked is 12 because you submitted your report on 13 February 25th, 2019. So may I assume that 14 everything on the list, Exhibit No. 3, the first 15 page, supplemental, represents documents you 16 received after February 25th, 2019, correct? 17 MS. BROWN: Objection to the form. 18 THE WITNESS: I wouldn't assume that. I 19 mean, so certainly some things here, right. So 20 the expert reports that are dated 2/25, I didn't 21 have, you know, even on the day that I submitted 22 mine, so those came after. Something like the 23 Barnard study, I may well have had that. I mean, 24 my -- my goal here was to -- just to make sure 25 that we hadn't left anything off.</p>

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<p>1 BY MS. PARFITT:</p> <p>2 Q All right. Is it fair to say that the</p> <p>3 items that are listed on Exhibit No. 2 -- 3 were</p> <p>4 not items that you considered for purposes of the</p> <p>5 opinions you've expressed in your report of</p> <p>6 February 25th, 2019?</p> <p>7 MS. BROWN: Objection to the form.</p> <p>8 THE WITNESS: So I -- it's very possible</p> <p>9 that the Barnard study I did consider. Trabert, I</p> <p>10 can't remember. But definitely, right, the expert</p> <p>11 reports that are dated on 2/25, I couldn't have</p> <p>12 considered. And anything that's a deposition</p> <p>13 transcript that happened after 2/25, obviously I</p> <p>14 couldn't have considered that either.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q All right. Very good.</p> <p>17 The information thereafter, I believe we</p> <p>18 have -- one, two, three -- four invoices. They</p> <p>19 begin with the date of 12/14/2018, and end with a</p> <p>20 date of 3/15/19.</p> <p>21 Are there any other invoices that you</p> <p>22 would like to share with me today?</p> <p>23 A I don't have any others that I'm aware</p> <p>24 of.</p> <p>25 Q Are you preparing any invoices for your</p>	<p>1 Q All right. Let me get this straight.</p> <p>2 Your hourly rate is 485.</p> <p>3 A Well, sort of. I'll describe it if</p> <p>4 you'd like here.</p> <p>5 Q Well, I -- you can understand my</p> <p>6 confusion. If your hourly rate is 485, I want to</p> <p>7 know you're -- why I'm getting --</p> <p>8 A You don't need to be confused for very</p> <p>9 long, though.</p> <p>10 MS. BROWN: Hold on. Hold on.</p> <p>11 Counsel, you've got to let him answer</p> <p>12 the question.</p> <p>13 MS. PARFITT: Sure.</p> <p>14 MS. BROWN: He is endeavoring to set</p> <p>15 that straight.</p> <p>16 MS. PARFITT: Please.</p> <p>17 MS. BROWN: So go ahead.</p> <p>18 THE WITNESS: I think it's pretty easy.</p> <p>19 I charge \$400 an hour, and Medical Science</p> <p>20 Affiliates prepares this invoice, and part of</p> <p>21 their business model is to add an hourly rate</p> <p>22 to -- to my rate.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Okay. And I want to talk a little bit</p> <p>25 about that in a moment, but that's exactly one of</p>
<p style="text-align: center;">Page 23</p> <p>1 time post the very last invoice which is dated</p> <p>2 3/15/2019?</p> <p>3 A I will be.</p> <p>4 Q All right. How many hours have you</p> <p>5 spent since your submitting the invoice of</p> <p>6 3/15/2019?</p> <p>7 A Let's see, three -- I would estimate</p> <p>8 about -- about 20 hours or maybe 25 hours, give or</p> <p>9 take.</p> <p>10 Q All right. And what is your hourly</p> <p>11 rate?</p> <p>12 A So to clarify, so when on here it says</p> <p>13 it's 485, my -- my rate itself is actually \$400 an</p> <p>14 hour, and that's the amount that was charged.</p> <p>15 Q Okay. Now, is the amount that was</p> <p>16 charged, 400, because you worked with someone else</p> <p>17 who assists you with preparing the materials?</p> <p>18 A It's not --</p> <p>19 MS. BROWN: Objection to the form of the</p> <p>20 question.</p> <p>21 THE WITNESS: Sorry.</p> <p>22 MS. BROWN: Go ahead. You can answer.</p> <p>23 THE WITNESS: No, it's because that's</p> <p>24 how much I've asked to be paid is \$400 per hour.</p> <p>25 BY MS. PARFITT:</p>	<p style="text-align: center;">Page 25</p> <p>1 the issues I need some clarification on. But</p> <p>2 let's finish up the bills.</p> <p>3 A Mm-hmm.</p> <p>4 Q We have a bill for 12/14/2018 for</p> <p>5 \$17,103.75. Correct?</p> <p>6 A Correct.</p> <p>7 Q And we have a bill for 1/15/2018 for</p> <p>8 \$5,068.02, correct?</p> <p>9 A That's correct.</p> <p>10 Q We have a bill for 2/12/2019 for</p> <p>11 \$35,375. Is that correct?</p> <p>12 A It is.</p> <p>13 Q And we have a bill for \$20,973.75; is</p> <p>14 that correct?</p> <p>15 A It is.</p> <p>16 Q And then we have an additional 20, maybe</p> <p>17 25 hours that you will charge at the rate of \$400,</p> <p>18 although Medical Science Affiliates gets \$85 of</p> <p>19 that, correct?</p> <p>20 A That's correct, although I think -- I</p> <p>21 don't know if you're following -- well, that's</p> <p>22 correct. Go ahead.</p> <p>23 Q Okay. And we'll explore that in a</p> <p>24 minute.</p> <p>25 A Okay.</p>

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<p>1 Q Now, attached to that is -- it has an 2 exhibit on it, Plaintiffs' Exhibit No. 7, and it 3 appears to be several pages of notes. 4 Do you see that? 5 A I do. 6 Q All right. What are these notes? 7 A Well, these -- I haven't looked to see 8 for sure what's -- 9 MS. BROWN: And, Counsel, just to make 10 sure the record is clear, this was produced in 11 response per your request for his notes that were 12 marked at the Ingham deposition. So this exhibit 13 number is the marking from the Ingham deposition, 14 and these were the notes that he produced there 15 that I'm frankly sure you have access to, but in 16 the effort of cooperation, we reproduced them here 17 per your request. 18 BY MS. PARFITT: 19 Q So, Doctor -- 20 A It's -- oh, go ahead. I'm sorry. 21 Q Go ahead. You were going to tell me 22 what they are. 23 A Yeah, and I didn't know if that was 24 the -- the sufficient answer, because that's 25 literally, I guess, what they are right there.</p>	<p>1 that I just made as I was reading through 2 different articles. 3 Q Okay. Would -- 4 A No, I'm sorry. 5 Q Are you finished? 6 A No, that's just what I was going to say, 7 so these are -- it just represents just notes that 8 I was making at certain times when I was looking 9 at some of the articles. 10 Q Okay. When did you first start looking 11 at any of the articles? 12 A Sometime in -- by -- if we're talking 13 about the articles, meaning articles pertaining to 14 ovarian cancer and talcum powder, is it? 15 Q Well, it's a good question, because you 16 just said when you started looking at any of the 17 articles, are you talk- -- do these represent any 18 articles or do these represent articles of ovarian 19 cancer and talcum powder? 20 A Yeah, yeah. 21 MS. BROWN: And hold on, I think the 22 record is going to be unclear. When you say 23 "these," are you referring to what has been marked 24 as Plaintiffs' Exhibit 7 in response to your -- 25 MS. PARFITT: Correct.</p>
<p style="text-align: center;">Page 27</p> <p>1 These are -- they're an exhibit. But did you mean 2 something else, like -- 3 Q Well, now that I've had clarification by 4 your attorney, that does help a bit, but I do have 5 a couple of questions. 6 MS. MILLER: For the record, she's not 7 his attorney. She's J&J's attorney. 8 MS. PARFITT: We're going to have one 9 examiner today. So you and Ali decide who that's 10 going to be. 11 MS. BROWN: Okay. Counsel, let's keep 12 going with the questions for Dr. Diette so we 13 don't waste the doctor's time. 14 MS. PARFITT: Believe me, I don't want 15 to waste my time. So let's -- okay. I realize 16 every now and again it happens. 17 BY MS. PARFITT: 18 Q So, Dr. Diette, these are notes that you 19 prepared back at the time of the Ingham 20 deposition, correct? 21 A So not literally. Right, there are -- I 22 was asked, and I don't remember exactly what -- 23 what was on the notice, but I was asked to bring 24 any notes that I had made. So they're not 25 necessarily for the Ingham matter. They're notes</p>	<p style="text-align: center;">Page 29</p> <p>1 MS. BROWN: -- notice of deposition? 2 Okay. 3 THE WITNESS: So this would have been 4 sometime in 2017 that -- that I started. I don't 5 know if these notes were made in 2017, but I 6 just mean that that's the answer to when I started 7 to look at those article -- articles. 8 BY MS. PARFITT: 9 Q And we'll get to that timeline in a 10 moment. 11 Are there any additional notes that you 12 have prepared post Plaintiffs' Exhibit No. 7, 13 which I understand you presented at the Ingham 14 deposition? 15 A I don't think so. I'll give you an 16 example of something that I don't know whether you 17 consider it a note or not. 18 Q Okay. 19 A Like as I was preparing my report, I 20 would put like a -- like a little sticker on a 21 paper where I wanted to pull a quote into the -- 22 into the paper, and then I would tear that off and 23 throw it away because it wasn't, you know, useful 24 anymore. But nothing else that kind of -- that 25 looks like this.</p>

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<p>1 Q All right. So you would put a sticker 2 on a paper like when I wanted to put a quote in, 3 and then I tore it off. 4 Are these medical records that -- or 5 excuse me, medical articles that you were 6 reviewing? 7 A These are scientific articles, yeah, the 8 ones that informed my report. 9 Q All right. So do you have a stack of 10 scientific and medical articles that informed your 11 report at your office, at your home? 12 A I've got -- I've got little piles of 13 stuff everywhere you can look. 14 Q Okay. Do any of them have markings on 15 them or any stickies? 16 A I don't think there's any stickies 17 anymore. If they have markings, there could be 18 some that have yellow highlights. 19 Q All right. 20 A But I don't think any that have like 21 writing on them per se. 22 Q Okay. But there might be yellow 23 highlights on them, correct? 24 A There sure could be, yeah. Not on all 25 of them, but could be on some.</p>	<p>1 objections to those document requests, and 2 Dr. Diette's testimony will be consistent with 3 that. 4 MS. PARFITT: My question -- are you 5 objecting to providing me with a copy of 6 Dr. Diette's agreement with Medical Science 7 Affiliates? 8 MS. BROWN: Well, we haven't even 9 established that there is such a thing. I 10 understand you to be getting into questions 11 regarding Medical Sciences. 12 MS. PARFITT: I will, yeah. 13 MS. BROWN: I understand you've asked a 14 number of document requests regarding Medical 15 Sciences, and I just want to make sure that the 16 record is clear that we have endeavored to respond 17 to those and object accordingly. 18 MS. PARFITT: Okay. And we're going to 19 try and reduce the number of narrative objections 20 if we can so we can get through this -- 21 THE WITNESS: I remember your question 22 if you want me to answer it. 23 BY MS. PARFITT: 24 Q I do. 25 I wanted to know in response to request</p>
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<p>1 Q All right. 2 MS. PARFITT: I'll address this with 3 counsel later, but I would request copies of all 4 those highlighted articles that you may have 5 somewhere. But we can talk about that -- 6 MS. BROWN: We can talk about that off 7 the record. 8 THE WITNESS: Okay. 9 BY MS. PARFITT: 10 Q All right. So other than notations on 11 some medical and scientific articles, there would 12 be no additional notes like that which forms part 13 of the part of Plaintiffs' Exhibit 7, correct? 14 A Correct. 15 Q All right. In the request to appear 16 here at your deposition, there was an inquiry with 17 regard to, I believe you called it, Medical 18 Science Affiliates. 19 A Correct. 20 Q All right. Do you have a retainer 21 agreement with Medical Science Affiliates? 22 MS. BROWN: And I'm just going to 23 interject here, Counsel. To the extent you've 24 made a request for any documentation regarding 25 Medical Science Affiliates, you have our</p>	<p>1 number 14, whether or not you have any contracts, 2 agreements, writings conveying mutual 3 understandings between you and Medical Science 4 Affiliates or any entity of or related to Medical 5 Science Affiliates for the past ten years? 6 MS. BROWN: And, Counsel, I'm going to 7 object to the extent that any of those requests or 8 documentation involve work product that we have 9 asserted privilege over, he will not be answering 10 that question under the work-product privilege. 11 MS. PARFITT: Okay, Counsel, you can 12 assert work product. Got it. Is that what you're 13 asserting right now? 14 MS. BROWN: Yes. He's not going to 15 answer that question. We're asserting work 16 product. 17 MS. PARFITT: So he is not going to 18 answer my question with regard to any agreement or 19 writing or contracts that he has with Medical 20 Science Affiliates under the guidance of counsel 21 that is objecting and refusing to have you answer 22 that question. Is that correct -- record correct? 23 MS. BROWN: That's correct, Counsel. 24 MS. PARFITT: Okay. 25 BY MS. PARFITT:</p>

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<p>1 Q And we're going to talk about Medical 2 Science in just -- just a moment. 3 Anything else other than the documents 4 that I have in front of you, Exhibit 7, the 5 invoice and your supplemental reliance, that you 6 have brought to your deposition today? 7 A So I didn't bring this today. 8 Q Okay. Fair enough. 9 A I mean I -- I didn't bring anything -- I 10 mean I didn't bring any materials to the 11 deposition. 12 Q Okay. 13 All right. Dr. Diette, what is your 14 profession? 15 A Well, I'm a physician, epidemiologist, 16 researcher. 17 Q Okay. You're actually a professor of 18 medicine at the Department of Pulmonary and 19 Critical Care, is that correct, at Johns Hopkins? 20 A Literally it's the Department of 21 Internal Medicine, and it's the Division of 22 Pulmonary, Critical Care, and Sleep Medicine. 23 Q Okay. Dr. Diette, do you agree that 24 ovarian cancer ranks as the fifth cause of 25 neoplastic death among women?</p>	<p>1 THE WITNESS: I've seen -- I've seen it 2 ranked highly. I don't remember if it was fifth, 3 but I've seen it ranked highly. 4 BY MS. PARFITT: 5 Q All right. Are you aware of the fact 6 that ovarian cancer accounts for more deaths than 7 any other cancer in the female reproductive 8 system? 9 A Ovarian cancer. Is that -- is that a 10 statement from a -- like a document or something? 11 Q It's a question. 12 A It's a question that -- 13 Q Do you know whether or not ovarian 14 cancer accounts for more deaths than any other 15 cancer of the female reproductive system? 16 A I know it's a highly ranked one. I 17 wouldn't be able to say whether it's more than all 18 others. 19 Q All right. Do you know whether 20 approximately 22,000 new cases of ovarian cancer 21 identified each year and 14,000 women 22 approximately will die in the United States alone 23 from ovarian cancer? 24 MS. BROWN: Objection to the form. 25 THE WITNESS: I haven't memorized</p>
<p style="text-align: center;">Page 35</p> <p>1 A I've seen -- I've seen it listed on -- 2 you know, on lists of causes of death. I don't 3 know what you mean by "agree with," but I mean -- 4 Q Do you have a difference of opinion as 5 to whether or not ovarian cancer ranks fifth with 6 regard to causes of neoplastic death among women? 7 MS. BROWN: Objection. Asked and 8 answered. 9 THE WITNESS: It doesn't seem to be 10 something that there's an opinion on. That's what 11 I mean. I mean it's like an objective fact. I 12 mean if there's a list that's put out by, you 13 know, government stats, and it's number 5 on that 14 list, that's -- that's an objective fact. 15 BY MS. PARFITT: 16 Q Do you object to that? 17 MS. BROWN: Let him answer, Counsel. 18 MS. PARFITT: I have. Thank you. 19 Are you objecting as -- 20 BY MS. PARFITT: 21 Q Let me ask you this, Doctor. 22 A Okay. 23 Q Have you seen that in any published 24 scientific literature? 25 MS. BROWN: Objection to the form.</p>	<p style="text-align: center;">Page 37</p> <p>1 anything with exact numbers like that. I mean I'm 2 not saying it's far off from the truth, and if you 3 have, you know, some document that supports that, 4 I'd be glad to look at it and see if it looks 5 right, but -- but I haven't memorized the exact 6 number. 7 BY MS. PARFITT: 8 Q All right. And you know, Dr. Diette, 9 this won't be a memory test, but I do understand 10 that you have spent almost \$100,000 in this case 11 alone reviewing medical and scientific articles, 12 so all I'm simply asking is that you provide me 13 with your best answers. Fair? 14 MS. BROWN: I object to the -- 15 MS. PARFITT: That's all, Counsel. 16 That's all -- 17 MS. BROWN: -- speech by counsel. He's 18 here to answer your questions. 19 MS. PARFITT: Counsel -- 20 MS. BROWN: That is a highly 21 objectionable statement, Counsel, and you know it. 22 If you have a question to ask him, he is here to 23 answer it. We're not going to be here to have you 24 give speeches on the record about the fees that he 25 has charged for the work that he has done.</p>

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<p>1 MS. PARFITT: Ms. Brown, your objection, 2 according to the CMO in the MDL case, perhaps 3 you're doing other state depositions, is that you 4 say, "Objection. Form."</p> <p>5 And I'll try and do my best, if you'd do 6 the same. And I'm not admonishing you, and I hope 7 you're not admonishing me. That's not how I roll.</p> <p>8 MS. BROWN: Well, the record is going to 9 be very clear --</p> <p>10 MS. PARFITT: It will be.</p> <p>11 MS. BROWN: -- about the statement that 12 you just made about the other work that I'm doing.</p> <p>13 MS. PARFITT: I said --</p> <p>14 MS. BROWN: I am well aware of the 15 CMO --</p> <p>16 MS. PARFITT: Perfect. Okay.</p> <p>17 Counsel --</p> <p>18 MS. BROWN: -- and the deposition 19 protocol in this case.</p> <p>20 MS. PARFITT: -- that's fine.</p> <p>21 MS. BROWN: And I --</p> <p>22 MS. PARFITT: Counsel --</p> <p>23 MS. BROWN: -- expect that you will 24 abide by it --</p> <p>25 MS. PARFITT: -- let me ask questions.</p>	<p>1 thinking about your question before, I just wanted 2 to clarify that I -- because when you said that I 3 billed \$100,000, I think what you might be doing 4 is adding up all of those MSA invoices, which that 5 doesn't all go to me. I mean there's a way to 6 figure out how much that I've billed, but -- but 7 you wouldn't be correct if you're saying that 8 those four invoices represent the amount that I've 9 charged.</p> <p>10 Q Okay. And we'll talk about that, but I 11 appreciate the clarification.</p> <p>12 So, the other question is, do you have 13 an understanding that most ovarian cancer cases 14 are detected and diagnosed at a late stage and 15 there are limited prospects for cure?</p> <p>16 MS. BROWN: Same objection.</p> <p>17 THE WITNESS: I have that general 18 understanding.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q Okay. Do you have any knowledge as to 21 what the mortality and morbidity of ovarian cancer 22 is?</p> <p>23 A Well, the morbidity is not a number, 24 right. I mean you're talking about what are the 25 consequences?</p>
<p style="text-align: center;">Page 39</p> <p>1 MS. BROWN: -- and not interrupt me. 2 Thank you.</p> <p>3 MS. PARFITT: I am not going to, but I 4 would ask the same courtesy. And, listen, we have 5 a long day to go, and it will be longer --</p> <p>6 MS. BROWN: Just ask the doctor a 7 question and move on.</p> <p>8 MS. PARFITT: -- if we go back and 9 forth. "Objection, form" is the appropriate way, 10 or we will have to call the judge.</p> <p>11 MS. BROWN: Happy to do it.</p> <p>12 MS. PARFITT: Very good. So will I.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q All right. Dr. Diette, do you have an 15 understanding from your review of the scientific 16 and medical literature that ovarian cancer cases 17 are detected and diagnosed at a late stage and 18 there are limited prospects for cure?</p> <p>19 MS. BROWN: Objection to the form of the 20 question.</p> <p>21 THE WITNESS: I didn't listen to what 22 you said because --</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Sure.</p> <p>25 A But just for the reason that I'm still</p>	<p style="text-align: center;">Page 41</p> <p>1 Q You're right.</p> <p>2 A And then the mortality would be 3 something that's an objective fact that there's a 4 percentage of people with the disease that die.</p> <p>5 Q Right.</p> <p>6 A I don't know the number. I didn't 7 memorize that. If it's important, we can look it 8 up, but it's a high -- it's a high proportion that 9 die from it.</p> <p>10 Q Fair. Do you know what the latency is 11 for ovarian cancer?</p> <p>12 A Between what and what?</p> <p>13 Q The latency period between -- let's take 14 some examples -- asbestos and ovarian cancer.</p> <p>15 MS. BROWN: Objection to the form of the 16 question.</p> <p>17 You can answer if you understand.</p> <p>18 THE WITNESS: So the -- that's a tricky 19 issue, I think in a way, because I'm not sure that 20 it's been fully established that asbestos causes 21 ovarian cancer. I mean I'm aware of what the IARC 22 has put out on it, but I'm not sure that that's a 23 fact. But I don't recall seeing in there where 24 the latency, if it was even true, whether that 25 was -- whether that was established.</p>

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<p>1 BY MS. PARFITT:</p> <p>2 Q All right. Have you in the course of --</p> <p>3 strike that.</p> <p>4 All right. From a review of the</p> <p>5 materials you reviewed attached to your expert</p> <p>6 report, Doctor, I see that you reviewed the Purdie</p> <p>7 case --</p> <p>8 MS. BROWN: Counsel -- Counsel, is there</p> <p>9 a page you want to point him to so we can follow</p> <p>10 along?</p> <p>11 MS. PARFITT: I'm still asking the</p> <p>12 question, Counsel.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Dr. Diette, attached to your report is a</p> <p>15 materials reviewed. And on page 7, it lists that</p> <p>16 you have read the Purdie case, which is a 1995</p> <p>17 case study -- excuse me, not case study, but a</p> <p>18 scientific article.</p> <p>19 MS. BROWN: Objection to the form.</p> <p>20 Take your time to get to that page,</p> <p>21 Doctor.</p> <p>22 THE WITNESS: It's 7 in my report?</p> <p>23 BY MS. PARFITT:</p> <p>24 Q It is on page 7 of your report.</p> <p>25 MS. BROWN: And, Counsel, I think we</p>	<p>1 Q Okay. All right. And we're going to</p> <p>2 talk about that in conjunction with -- just hold</p> <p>3 tight. I'm going to set that aside, and let me</p> <p>4 ask you this --</p> <p>5 A Can I ask just real quick?</p> <p>6 Q Sure.</p> <p>7 A There's like a cold breeze blowing down</p> <p>8 here, and I know we will regret making it warmer</p> <p>9 in here at some point.</p> <p>10 Q Sure.</p> <p>11 MS. PARFITT: Well, let's take a moment</p> <p>12 and let's see if we can --</p> <p>13 MS. BROWN: Why don't we go off the</p> <p>14 record for one second.</p> <p>15 THE VIDEOGRAPHER: The time is 9:25 a.m.</p> <p>16 We're going off the record.</p> <p>17 (Pause in the proceedings.)</p> <p>18 THE VIDEOGRAPHER: The time is 9:27 a.m.</p> <p>19 and we are back on the record.</p> <p>20 (Diette Exhibit No. 4 was marked</p> <p>21 for identification.)</p> <p>22 MS. PARFITT: Ready?</p> <p>23 THE VIDEOGRAPHER: Oh, yeah, we're on.</p> <p>24 MS. PARFITT: Okay. Thank you.</p> <p>25 BY MS. PARFITT:</p>
<p style="text-align: center;">Page 43</p> <p>1 have a disconnect here. Are you referring to the</p> <p>2 7 of the reliance list?</p> <p>3 MS. PARFITT: I am. I'm sorry about</p> <p>4 that.</p> <p>5 THE WITNESS: Oh. Is it 7 of the -- the</p> <p>6 exhibit you gave me or is it part of what's my</p> <p>7 reliance list that's attached to my report?</p> <p>8 BY MS. PARFITT:</p> <p>9 Q What I have is your reliance list, and</p> <p>10 it's page 7 of your reliance list.</p> <p>11 A I got you.</p> <p>12 MS. BROWN: Got that. Okay.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q And I believe you have three Purdie --</p> <p>15 excuse me, two Purdie cites, one 2003 and one</p> <p>16 1995. Correct?</p> <p>17 A That's correct.</p> <p>18 Q Okay. Did you indeed review the Purdie</p> <p>19 article for purposes of your testimony here today?</p> <p>20 MS. BROWN: Objection to the form.</p> <p>21 THE WITNESS: I don't think I reviewed</p> <p>22 it for the purpose of my testimony, but I -- I</p> <p>23 included it because it's something I reviewed at</p> <p>24 some point prior to preparing the report.</p> <p>25 BY MS. PARFITT:</p>	<p style="text-align: center;">Page 45</p> <p>1 Q Dr. Diette, let me show you what's been</p> <p>2 marked as Plaintiffs' Exhibit No. 4 to the Diette</p> <p>3 deposition, and I'll represent to you -- sorry --</p> <p>4 I'll represent to you that this is the --</p> <p>5 MS. BROWN: Thank you.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q -- an article by Dr. Purdie entitled</p> <p>8 "Ovulation and Risk of Epithelial Ovarian Cancer"</p> <p>9 published in the International Journal of Cancer</p> <p>10 in 2003. Do you see that?</p> <p>11 A I do.</p> <p>12 Q All right. If I can direct your</p> <p>13 attention to page 231 of that article.</p> <p>14 MS. PARFITT: Let's put it on the ELMO.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. And, Dr. Diette, I'll put it up</p> <p>17 on the overhead as well. About halfway down --</p> <p>18 there you go -- left-hand column, Dr. Purdie and</p> <p>19 authors state: "Thus, the latency period of more</p> <p>20 advanced malignant epithelial ovarian cancer could</p> <p>21 be estimated to be approximately 30 to 40 years."</p> <p>22 Did I read that correctly?</p> <p>23 A You read it fine.</p> <p>24 Q All right. Do you agree or disagree</p> <p>25 that the latency period of more advanced malignant</p>

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<p>1 epithelial ovarian cancer can be estimated to be 2 approximately 30 to 40 years?</p> <p>3 A Well, I think, you know -- so there's no 4 way for me to know for sure, right, but could 5 be -- it seems like a pretty safe statement 6 because it could be more, it could be less.</p> <p>7 It's also an incomplete sentence, right, 8 in the sense that when you talk about the latency, 9 you talk about the latency between a particular 10 kind of exposure. I mean, in this context, right, 11 there may have other -- there may be other ways 12 people use that word, but in this context it's the 13 time from the exposure to the development of the 14 disease. So there's no exposure mentioned in that 15 sentence, so it's a little -- a little loose, you 16 know.</p> <p>17 MS. PARFITT: All right. Move to strike 18 that last part of your statement.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q Okay. Dr. Diette, do you agree that 21 it's imperative to develop public health programs 22 that either reduce the incidence or detect ovarian 23 cancer at an earlier stage?</p> <p>24 A It's an agreeable statement.</p> <p>25 Q Okay. In developing public health</p>	<p>1 BY MS. PARFITT: 2 Q Sure. And, you know, that might be -- 3 that might be fair. So let me go for a third try. 4 Okay?</p> <p>5 A Okay.</p> <p>6 Q Do you develop public health programs 7 for Johns Hopkins?</p> <p>8 A I'm trying to think -- I would say 9 generally, no. I mean --</p> <p>10 Q It's not part of your role.</p> <p>11 MS. BROWN: Well, let him finish. I'm 12 sorry.</p> <p>13 THE WITNESS: But I don't know -- I 14 mean, I don't know what -- I mean that's a pretty 15 broad topic, which is what's a public health 16 program. So I'm just thinking like, for example, 17 you know, I've done work with asthma in -- in the 18 inner city nearby.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q Correct.</p> <p>21 A And we certainly have a program, you 22 know, that deals with -- with that. I wouldn't 23 say I've developed it as a public health program 24 per se but as a -- as a research program. But, 25 you know, where public health starts and stops,</p>
<p style="text-align: center;">Page 47</p> <p>1 programs, does -- in order to set up preventive 2 programs, detection programs, does that include 3 getting information about whatever the putative 4 exposure may be to individuals who may be 5 susceptible to them?</p> <p>6 MS. BROWN: Objection to the form of the 7 question.</p> <p>8 MS. PARFITT: Let me strike that 9 question completely. It was a lousy question. 10 All right.</p> <p>11 THE WITNESS: It was --</p> <p>12 MS. PARFITT: And I'm going to agree 13 with counsel on that. How about that?</p> <p>14 THE WITNESS: It was below average. It 15 wasn't lousy.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Sure. Okay.</p> <p>18 When one develops a public health 19 program in order to alert individuals about a 20 public health issue, what is the manner, let's 21 say, in your department to do that?</p> <p>22 MS. BROWN: Objection to the form of the 23 question.</p> <p>24 THE WITNESS: I'm not sure what we're 25 talking about. I mean --</p>	<p style="text-align: center;">Page 49</p> <p>1 I'm not exactly sure.</p> <p>2 Q Fair enough.</p> <p>3 All right. Talcum powder products are 4 widely available, correct?</p> <p>5 MS. BROWN: Objection to the form of the 6 question.</p> <p>7 THE WITNESS: You know, they -- I 8 guess -- so anyway, I'm an epidemiologist, so when 9 somebody says something like that, like when you 10 say it, like I'm thinking like to whom or for whom 11 or where or when or something. I mean there's 12 sort of like a time and place and something else 13 more to that. I think it's a common product, but 14 I don't -- I don't know what it means to be widely 15 available.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q All right. Did you ever ask Johnson & 18 Johnson or their attorneys a question with regard 19 to how many bottles of Johnson & Johnson's Baby 20 Powder they distribute each year in America?</p> <p>21 MS. BROWN: Objection to the form of the 22 question.</p> <p>23 THE WITNESS: I have not asked that.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Okay. Similarly, have you ever asked</p>

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<p>1 Johnson & Johnson how many bottles of their Shower 2 to Shower they distributed?</p> <p>3 A No.</p> <p>4 MS. BROWN: Same objection.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q All right. Have you ever purchased 7 talcum powder products?</p> <p>8 A I -- I don't do the shopping. You know, 9 and so it -- like, I don't -- I don't buy anything 10 at the store.</p> <p>11 Q Okay. Fair enough.</p> <p>12 Are you aware of the fact that Johnson & 13 Johnson continues to sell their talcum powder 14 products?</p> <p>15 A I wasn't aware that they weren't. I 16 mean, I don't know where I would get that from, 17 but as best as I can tell.</p> <p>18 Q All right. Have you ever looked at the 19 back of a Johnson & Johnson's Baby Powder product 20 to see what it says about its usage --</p> <p>21 MS. BROWN: Objection.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q -- and direction?</p> <p>24 MS. BROWN: Excuse me. Objection to the 25 form of the question.</p>	<p>1 BY MS. PARFITT: 2 Q Okay. Let me show you what I'll have 3 marked as Exhibit -- 4 MS. PARFITT: Where are we? 5 MR. ROSEN: Five.</p> <p>6 BY MS. PARFITT: 7 Q -- 5. And I'll represent to you, 8 Dr. Diette, that this is a bottle of Johnson's 9 Baby Powder, and we'll have it marked as Exhibit 10 No. 5. 11 (Diette Exhibit No. 5 was marked 12 for identification.)</p> <p>13 BY MS. PARFITT: 14 Q Now, my understanding is that you are 15 trained, skilled, and have expertise in pulmonary 16 medicine, correct? 17 A Among other things. 18 Q And I didn't mean to limit your 19 expertise. Okay. 20 If you will, let me show -- pass to you 21 the Exhibit No. 5, and ask that you turn it to the 22 back. Look at the bottle. 23 MS. BROWN: Counsel, before he does 24 that, will you put -- represent on the record 25 where this bottle that you've marked as Exhibit 5</p>
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<p>1 THE WITNESS: It's possible that I have 2 years ago, but not -- not recently.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q Nothing recent.</p> <p>5 How about since you were retained by 6 Johnson & Johnson as an expert, have you ever 7 looked at a bottle of Johnson & Johnson's Baby 8 Powder or Shower to Shower?</p> <p>9 MS. BROWN: Same objection.</p> <p>10 THE WITNESS: No. I've seen pictures, 11 you know, in different settings, but I haven't -- 12 I haven't seen a bottle of it or looked at it.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Okay. Do you have an understanding as 15 to whether or not Johnson & Johnson's Baby Powder 16 or the Shower to Shower contains a warning on its 17 product against use in the genital area to avoid 18 ovarian cancer?</p> <p>19 MS. BROWN: Objection to the form.</p> <p>20 THE WITNESS: I don't know whether they 21 do or don't. But I'm also not, you know, skilled 22 in warnings. So I wouldn't -- I mean, I -- even 23 if it said something, I wouldn't necessarily be 24 the person to tell you whether that's a warning or 25 not.</p>	<p>1 came from and when it was purchased and by whom? 2 MS. PARFITT: Counsel, I'm asking the 3 questions. I just represent that it is a bottle 4 of Johnson & Johnson's Baby Powder purchased from 5 a store. 6 MS. MILLER: Michelle, I'm trying 7 really, really hard not to say a word today. 8 MS. PARFITT: Sure. 9 MS. MILLER: I know that I'll annoy 10 you -- 11 MS. PARFITT: Oh, no, you're not. 12 MS. MILLER: -- but it's not Johnson & 13 Johnson's Baby Powder. It's Johnson's Baby 14 Powder, and you keep saying it wrong. 15 MS. PARFITT: That's fine. That's fine. 16 MS. MILLER: And I think for the record, 17 it's important. It's a product by JJCI, as you 18 know. 19 MS. PARFITT: That's fine. 20 MS. MILLER: So we just need 21 Johnson's -- 22 MS. PARFITT: Okay. And why don't we -- 23 whenever I -- since I'm sure I won't remember all 24 that, why don't we just reflect for the record 25 that when I say Johnson & Johnson's Baby Powder,</p>

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<p>1 that it's Johnson's Baby Powder. Okay?</p> <p>2 MS. BROWN: And just to get my -- my</p> <p>3 objection on the record to what you marked as</p> <p>4 Exhibit 5, we have no representation of when this</p> <p>5 was bought, by whom it was bought.</p> <p>6 With that, Dr. Diette, here is</p> <p>7 Exhibit 5.</p> <p>8 MS. PARFITT: Thank you.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q All right, Dr. Diette, look at the back</p> <p>11 of that. Do you see that there's a little picture</p> <p>12 that looks like a little baby with an X on it?</p> <p>13 A I do.</p> <p>14 MS. BROWN: Objection to the form.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. Okay. What does that say on the</p> <p>17 back of the product?</p> <p>18 A It says: "Warning: Keep powder away</p> <p>19 from child's face to avoid inhalation, which can</p> <p>20 cause breathing problems. Avoid contact with the</p> <p>21 eyes. For external use only."</p> <p>22 Q Okay. And at the bottom of that</p> <p>23 product, does it happen to say what's contained in</p> <p>24 it?</p> <p>25 MS. BROWN: Objection to the form of the</p>	<p>1 expert work for them?</p> <p>2 MS. BROWN: Objection to the form.</p> <p>3 THE WITNESS: I believe so, yeah.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q Okay. Had you ever worked for Johnson &</p> <p>6 Johnson or any of their entities prior to 2017 in</p> <p>7 any type of litigation?</p> <p>8 MS. BROWN: Same objection.</p> <p>9 THE WITNESS: I -- I don't think so. I</p> <p>10 would say almost certainly no.</p> <p>11 BY MS. PARFITT:</p> <p>12 Q Okay. Since your retention in 2017, did</p> <p>13 Johnson & Johnson, their medical department, their</p> <p>14 regulatory department, science department, ever</p> <p>15 ask that you take a look at the back of the</p> <p>16 product, Johnson's Baby Powder, for purposes of</p> <p>17 giving an opinion as to what scientific and</p> <p>18 medical information should be on that product?</p> <p>19 MS. BROWN: Objection to the form of the</p> <p>20 question.</p> <p>21 THE WITNESS: I would be the wrong kind</p> <p>22 of expert for that. I mean I'm not a warnings</p> <p>23 expert, so it wouldn't -- wouldn't make any sense</p> <p>24 for anybody to ask me that question.</p> <p>25 BY MS. PARFITT:</p>
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<p>1 question.</p> <p>2 THE WITNESS: It has a line called</p> <p>3 "Ingredients," which says "Talc, fragrance."</p> <p>4 BY MS. PARFITT:</p> <p>5 Q Okay. Dr. Diette, you've been retained</p> <p>6 by Johnson & Johnson since when, for purposes of</p> <p>7 the ovarian cancer cases?</p> <p>8 MS. BROWN: Objection. Form. Do you</p> <p>9 mean the Ingham case or do you mean the MDL?</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Well, let me clarify.</p> <p>12 When were you first -- it's a fair</p> <p>13 question -- when were you first retained by</p> <p>14 Johnson & Johnson to represent them in either</p> <p>15 mesothelioma cases or ovarian cancer cases?</p> <p>16 MS. BROWN: Objection to the form. He</p> <p>17 is an expert witness on behalf of Johnson &</p> <p>18 Johnson. He is not here representing anyone.</p> <p>19 THE WITNESS: That honestly sounds like</p> <p>20 Ms. Brown's job, I mean, but -- but I guess to try</p> <p>21 to answer your question, the -- I was first asked</p> <p>22 to review the epidemiology in 2017.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Okay. And was that the first time that</p> <p>25 Johnson & Johnson had asked you to provide any</p>	<p>1 Q I'm not asking you about the adequacy of</p> <p>2 the warning. I'm asking you about your expertise</p> <p>3 as a pulmonary medicine expert with regard to</p> <p>4 inhalation issues as contained on the back of that</p> <p>5 product.</p> <p>6 A It still wouldn't make any sense. I</p> <p>7 wouldn't be the person to ask that to.</p> <p>8 Q Dr. Diette, whether or not it makes</p> <p>9 sense to you or not, my question is simply this:</p> <p>10 Yes or no, has Johnson & Johnson asked your</p> <p>11 opinion at any point in time with regard to what</p> <p>12 kind of scientific and medical information should</p> <p>13 be on the back of their powder?</p> <p>14 MS. BROWN: Objection. Answered three</p> <p>15 times.</p> <p>16 THE WITNESS: They and everybody else in</p> <p>17 the world has not asked me to do anything like</p> <p>18 that ever.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q Okay. And they, Johnson & Johnson, has</p> <p>21 never asked you to -- your opinion with regard to</p> <p>22 the inhalation warning; is that correct?</p> <p>23 MS. BROWN: Objection. Counsel, we've</p> <p>24 been through this like six times.</p> <p>25 THE WITNESS: I think it's the same</p>

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<p>1 warning we're talking about, right?</p> <p>2 BY MS. PARFITT:</p> <p>3 Q The one that's on the back, yeah.</p> <p>4 A So it's still -- still the same.</p> <p>5 Q Okay. And just for the record, we're</p> <p>6 going to put on the ELMO -- thank you. Just go</p> <p>7 ahead and see if we can get that on there. Okay.</p> <p>8 (Counsel conferring.)</p> <p>9 BY MS. PARFITT:</p> <p>10 Q And again, for clarity of the record,</p> <p>11 what we've been talking about is on -- the child</p> <p>12 with the X over the nose and mouth and the warning</p> <p>13 that is to the far right, correct?</p> <p>14 MS. BROWN: Objection to the form.</p> <p>15 THE WITNESS: I was with you until you</p> <p>16 said "to the far right." I don't know --</p> <p>17 BY MS. PARFITT:</p> <p>18 Q To the right of the baby.</p> <p>19 A Oh, I see. I'm sorry.</p> <p>20 Q Yeah, no problem.</p> <p>21 A Yeah. No, that's --</p> <p>22 Q That's what we're talking about.</p> <p>23 A It's to the right of the baby, yeah.</p> <p>24 Q Okay. Very good. All right.</p> <p>25 Dr. Diette, as a scientist and a</p>	<p>1 you have who have a different opinion with regard</p> <p>2 to the causality of talcum powder products and</p> <p>3 ovarian cancer?</p> <p>4 MS. BROWN: Objection to the form.</p> <p>5 THE WITNESS: Well, I've seen like, for</p> <p>6 example, the expert reports that are -- that are</p> <p>7 part of this matter and some of the deposition</p> <p>8 transcripts. So -- so, yes, I mean I've seen what</p> <p>9 they've said.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Okay. And from your review of those</p> <p>12 expert reports, do you understand that many of</p> <p>13 those scientists and epidemiologists are</p> <p>14 individuals who treat women who have been</p> <p>15 diagnosed for ovarian cancer? Do you understand</p> <p>16 that?</p> <p>17 MS. BROWN: Objection. Lacks</p> <p>18 foundation, calls for speculation.</p> <p>19 THE WITNESS: So I saw that there were</p> <p>20 some GYN oncologists involved. I don't remember</p> <p>21 the count of them, but I saw there were GYN</p> <p>22 oncologists, both on the defense and the</p> <p>23 plaintiffs' side.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Okay. And the GYN oncologists would be</p>
<p style="text-align: center;">Page 59</p> <p>1 clinician, do you have a belief or opinion that</p> <p>2 women should be informed of even a potential risk</p> <p>3 of using talcum powder products on their genital</p> <p>4 area?</p> <p>5 MS. BROWN: Objection.</p> <p>6 THE WITNESS: Not based on what I've</p> <p>7 reviewed.</p> <p>8 BY MS. PARFITT:</p> <p>9 Q Okay. Is it your opinion that there is</p> <p>10 no risk of ovarian cancer from the long-term use</p> <p>11 of talcum powder products?</p> <p>12 MS. BROWN: Objection. Form.</p> <p>13 THE WITNESS: I -- I don't see evidence</p> <p>14 that there's a -- so I'm an epidemiologist, so the</p> <p>15 way I talk about things might be a little</p> <p>16 different than the way you're asking it. But</p> <p>17 there's not sufficient evidence to say that it's a</p> <p>18 cause of ovarian cancer.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q Okay. And we'll talk about that in a</p> <p>21 little bit.</p> <p>22 Do you have an understanding as to</p> <p>23 whether there are other scientists and</p> <p>24 epidemiologists who have reviewed the same</p> <p>25 scientific and epidemiological information that</p>	<p style="text-align: center;">Page 61</p> <p>1 the practice of medicine that treats women for</p> <p>2 reproductive diseases and cancers like ovarian</p> <p>3 cancer, correct?</p> <p>4 MS. BROWN: Objection.</p> <p>5 THE WITNESS: They -- they would be the</p> <p>6 ones that provide treatment for the GYN cancers.</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Okay. You're a pulmonologist, correct?</p> <p>9 A I am.</p> <p>10 Q All right.</p> <p>11 A And again, among other things.</p> <p>12 Q Understood.</p> <p>13 MS. BROWN: Let him finish, Counsel, he</p> <p>14 wasn't done.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q My -- it's a simple question, are you a</p> <p>17 pulmonologist?</p> <p>18 MS. BROWN: Wait, but he was still</p> <p>19 answering. You cut him off. Let him finish.</p> <p>20 MS. PARFITT: Doc -- I withdraw that</p> <p>21 question.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Are you a pulmonologist?</p> <p>24 A I am a pulmonologist.</p> <p>25 Q All right. As a pulmonologist, do you</p>

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<p>1 treat and care for women -- treat and care and 2 provide gynecological and oncological care to 3 women who have been diagnosed with ovarian cancer?</p> <p>4 MS. BROWN: Objection to the form.</p> <p>5 THE WITNESS: Mostly, no, although 6 I'll just -- there was a lot in your question, 7 right, so that --</p> <p>8 BY MS. PARFITT:</p> <p>9 Q You want me to break it down?</p> <p>10 MS. BROWN: Let him finish first, and 11 then you can follow up. He has to be allowed to 12 answer your question.</p> <p>13 MS. PARFITT: Oh, absolutely, but if 14 it's unclear -- that was one of the --</p> <p>15 THE WITNESS: I didn't say it was 16 unclear. I just said it -- it's complicated, so 17 there's more than -- it's not just a simple 18 answer.</p> <p>19 MS. PARFITT: Let me withdraw the 20 question.</p> <p>21 MS. BROWN: Wait, Counsel, he's not 22 done.</p> <p>23 Dr. Diette, you finish your answer, and 24 then counsel, of course, will follow up.</p> <p>25 BY MS. PARFITT:</p>	<p>1 that.</p> <p>2 BY MS. PARFITT:</p> <p>3 Q Okay. What is your understanding of the 4 testing that's been performed by Johnson & Johnson 5 on their talcum powder products?</p> <p>6 MS. BROWN: Objection. That's overly 7 broad.</p> <p>8 THE WITNESS: Well, like the type --</p> <p>9 MS. BROWN: You mean internal, external, 10 third party, FDA?</p> <p>11 BY MS. PARFITT:</p> <p>12 Q Do you understand the question?</p> <p>13 A I was actually going to say something 14 similar to what Ms. Brown said but less 15 sophisticated.</p> <p>16 I mean what I meant was, were you asking 17 about like the kinds of tests that were done or -- 18 or things of that sort? I just -- I just know, 19 generally speaking, that there has been testing 20 done.</p> <p>21 Q Sure. Let me make it very simple. 22 Are you aware of studies -- strike that.</p> <p>23 Have you seen studies done by Johnson & 24 Johnson that tested and evaluated their talcum 25 powder products for the presence of asbestos?</p>
<p style="text-align: center;">Page 63</p> <p>1 Q Okay. Go ahead.</p> <p>2 A Thank you.</p> <p>3 Q Sure.</p> <p>4 A So, you know, I wouldn't be the person 5 who prescribes chemotherapy or provides the 6 surgery. Part of my work is as an intensive care 7 doc in the oncology center, and so I'll see people 8 with every kind of cancer possible and provide 9 some of the care to them.</p> <p>10 I see people in my clinic that have, you 11 know, pulmonary consequences of some of their 12 treatment for ovarian cancer. And so it's -- it's 13 not a straightforward yes or no that I do or don't 14 participate, but I don't do the -- the GYN onc 15 part of that care.</p> <p>16 Q All right. Have you in your practice of 17 pulmonary medicine ever diagnosed a woman with 18 ovarian cancer?</p> <p>19 A I can't remember ever doing that.</p> <p>20 Q All right. Now, Dr. Diette, are you 21 aware of whether or not -- strike that.</p> <p>22 Are you aware that Johnson & Johnson has 23 tested their talcum powder products?</p> <p>24 MS. BROWN: Objection to the form.</p> <p>25 THE WITNESS: I have some awareness of</p>	<p style="text-align: center;">Page 65</p> <p>1 MS. BROWN: Same objection.</p> <p>2 THE WITNESS: I don't think I've seen 3 anything from Johnson & Johnson, per se.</p> <p>4 Is that what -- is that what you're 5 referring to?</p> <p>6 BY MS. PARFITT:</p> <p>7 Q That is, yes.</p> <p>8 A Okay. Then not -- not that I'm aware 9 of.</p> <p>10 Q All right. I saw where you looked at 11 the depositions of Drs. Longo and Rigler.</p> <p>12 MS. BROWN: Objection to the form.</p> <p>13 THE WITNESS: Is that in a different 14 case?</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Good question. You have their 17 depositions listed as part of the materials 18 reviewed and relied upon. Have you read those?</p> <p>19 MS. BROWN: Objection.</p> <p>20 If you want to refresh yourself on your 21 reliance list, I'm sure counsel will point you to 22 the page.</p> <p>23 MS. PARFITT: Absolutely.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Let me direct you to -- just bear with</p>

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<p>1 me one second. I apologize here.</p> <p>2 Okay. It's -- your reference materials</p> <p>3 reviewed and considered start on -- or in</p> <p>4 Appendix B of your report.</p> <p>5 Do you see that?</p> <p>6 A I don't see Longo and Rigler.</p> <p>7 Q Okay. At the very top, it has</p> <p>8 "Materials Reviewed and Considered by Gregory</p> <p>9 Diette," and the second item under "Expert</p> <p>10 References" says "Expert report of William Longo</p> <p>11 and Mark Rigler."</p> <p>12 Do you see that?</p> <p>13 A Oh, I do, yeah. So I see Longo, and I'm</p> <p>14 just --</p> <p>15 Q Do you see Rigler? He's right after</p> <p>16 that. It says William --</p> <p>17 A Oh, got you.</p> <p>18 MS. BROWN: Counsel, these are reports.</p> <p>19 I thought your question was about a deposition.</p> <p>20 MS. PARFITT: That's a -- that's a fair</p> <p>21 objection.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Have you read the expert report of</p> <p>24 William Longo and Mark Rigler?</p> <p>25 A So, because I see there's a date on it</p>	<p>1 Q But my question --</p> <p>2 MS. PARFITT: And noted.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q My question to you is, sitting here</p> <p>5 today, what I need to know -- and if it's no,</p> <p>6 that's a fine answer. If it's yes, that's a fine</p> <p>7 answer.</p> <p>8 Have you read the expert report of</p> <p>9 Drs. Longo and Rigler dated November 14, 2018?</p> <p>10 If you did, I'm not -- I'm not --</p> <p>11 MS. BROWN: Objection to the form. I</p> <p>12 think he answered that.</p> <p>13 Counsel, I think what you're really</p> <p>14 after is, is he relying on that to form his</p> <p>15 opinion.</p> <p>16 MS. PARFITT: Actually, I'm not. That's</p> <p>17 a good question, but I'm not asking that.</p> <p>18 BY MS. PARFITT:</p> <p>19 Q Did you read the report?</p> <p>20 A So I -- I'm not sure if I read this one</p> <p>21 with this particular date.</p> <p>22 Q That's fine.</p> <p>23 A But wait, wait, wait. But, you know, if</p> <p>24 it's on here, because that's what it reminds me</p> <p>25 of, I don't have a specific memory for this matter</p>
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<p>1 of November 14th, 2018 --</p> <p>2 Q Correct.</p> <p>3 A -- I know I've seen at least a few of</p> <p>4 Dr. Longo's reports, and I -- I think they're the</p> <p>5 same over and over again. So I -- if I -- if I'm</p> <p>6 not mistaken, I don't think I would have reread it</p> <p>7 like, you know, specifically for this matter if it</p> <p>8 looked the same as others. I think I probably</p> <p>9 just like flipped through it to see what it was --</p> <p>10 was there generally.</p> <p>11 Q All right. So I understand your answer,</p> <p>12 is your testimony that you don't recall</p> <p>13 specifically reviewing the November 14th, 2018</p> <p>14 expert report of Dr. Longo's and Rigler?</p> <p>15 MS. BROWN: Objection to the form,</p> <p>16 misstates his testimony.</p> <p>17 MS. MILLER: So can I say something?</p> <p>18 Because I was involved in that, I think that every</p> <p>19 item with respect to litigation that we sent to</p> <p>20 Dr. Diette, which would have been depositions or</p> <p>21 expert reports, was put on the list because it was</p> <p>22 sent to him. I --</p> <p>23 MS. PARFITT: Oh, and I understand. I</p> <p>24 appreciate that.</p> <p>25 BY MS. PARFITT:</p>	<p>1 because I've been reading some of these things for</p> <p>2 other matters as well. So I -- you know, I don't</p> <p>3 remember whether -- whether I read that particular</p> <p>4 one, but if it looked like other ones that I had,</p> <p>5 I would have, you know, touched it, opened it,</p> <p>6 looked to see what was in there, and then not read</p> <p>7 every word of it. But I don't remember which way</p> <p>8 it worked.</p> <p>9 Q Sitting here today, are you able to tell</p> <p>10 me the results of Dr. Longo and Rigler's testing</p> <p>11 of Johnson & Johnson's talcum powder products as</p> <p>12 reflected in their expert reports of November 14,</p> <p>13 2018?</p> <p>14 MS. BROWN: Objection to the form.</p> <p>15 THE WITNESS: I don't remember the</p> <p>16 details, but I could -- I could look that up and</p> <p>17 pull -- pull out what I saw.</p> <p>18 BY MS. PARFITT:</p> <p>19 Q Did you mark it?</p> <p>20 MS. BROWN: Objection to the form.</p> <p>21 THE WITNESS: Oh, you mean like with</p> <p>22 highlights?</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Mm-hmm. Yes, with highlights.</p> <p>25 A Sorry. I thought you were talking about</p>

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<p>1 marking exhibits, I'm thinking like that's not 2 what I do. So, no -- so I don't know. 3 Q All right. 4 A This particular one, I might have 5 highlighted an earlier one or -- or even not. And 6 the only reason I say that is because his reports 7 tend to have an awful lot of like sort of like 8 testing data in the -- in the back of it, and 9 there's not a lot of like words, you know, to 10 read. So there's not a lot to really highlight 11 for me. I mean, you know what I mean? It's kind 12 of succinct in terms of like the opinion part, and 13 then there's a whole bunch of scientific stuff 14 that's somebody else's field. 15 Q Understood. And I think what I'm 16 getting at is for purposes of the opinions you are 17 presenting to the jury in this case, are you 18 relying on the test results of Dr. Longo's and 19 Rigler's that are contained in not only their 20 November 14th -- contained in their November 14th, 21 2018 report? 22 MS. BROWN: And objection. 23 Counsel, you said "jury." I assume you 24 mean for purposes of this Daubert hearing, is he 25 relying on the Rigler and Longo report of</p>	<p>1 wouldn't say I rely on it in the sense that it's 2 an underpinning of an opinion or something like 3 that. 4 Q All right. Do you have an understanding 5 then that Drs. Longo and Rigler found the presence 6 of asbestos in the talcum powder products they 7 tested? 8 MS. BROWN: Objection to the form of the 9 question. 10 THE WITNESS: My -- my understanding is 11 they say they found it, but I don't -- I don't 12 know the fact of whether they found it or not. 13 BY MS. PARFITT: 14 Q Okay. Did -- from your read or not read 15 of Drs. Longo and Rigler -- strike that. 16 Did Drs. Longo and Rigler find 17 asbestos fibers in the tests done of Johnson & 18 Johnson's product, talcum powder products? 19 MS. BROWN: Objection to the form. 20 THE WITNESS: I guess I need to know 21 what we're talking about if you say "asbestos 22 fibers," because I thought your question before 23 was asbestos. 24 BY MS. PARFITT: 25 Q It was.</p>
<p style="text-align: center;">Page 71</p> <p>1 November 14th, 2018. 2 BY MS. PARFITT: 3 Q For purposes of the opinions that you 4 have provided in your expert report and I assume 5 will present to Judge Wolfson sometime in July, 6 are you relying on the information that's 7 contained in the expert report of Dr. Longo and 8 Rigler, November 14, 2018? 9 A I wouldn't use the word "rely." I would 10 say aware of, but not -- I'm not relying on it. 11 Q And let me explore that, because this is 12 the only time I will have a chance to talk to you 13 before that Daubert hearing. 14 A Sure. 15 Q Are you, for purposes of your opinion 16 that you're sharing -- will share with me today 17 and will share with the court in July, relying on 18 any of the test results of Drs. Longo and Rigler 19 contained in their reports of November 14, 2018? 20 A Yeah, I think the way I said it is 21 exactly right, because to me "rely on" has some -- 22 there's some legal connotation for that, right. 23 And so it doesn't -- it doesn't inform 24 my opinion, but I'm aware of what his general 25 position has been. And so -- but I don't -- I</p>	<p style="text-align: center;">Page 73</p> <p>1 A And are you expecting me to -- to say 2 that that's two different things, or is it just 3 another way of you trying to ask the same 4 question? 5 Q How do you define "asbestos fibers"?</p> <p>6 MR. LOCKE: Objection. 7 MS. BROWN: Objection to the form of the 8 question. 9 THE WITNESS: Well, I -- I understand 10 some the terminology, but I'm not a mineralogist. 11 Right. So I -- I can tell you -- I think I have 12 to diverge a little bit to answer your question, 13 if I can, just to say that -- unless you don't 14 want me to. Feel free to -- 15 MS. BROWN: No, you should answer the 16 question -- 17 THE WITNESS: Okay. 18 MS. BROWN: -- as honestly and 19 truthfully and accurately as you can. 20 THE WITNESS: Because asbestos -- I 21 mean, asbestos in terms of at least its 22 commercial, you know, forms is something that's 23 in -- that's in asbestos fiber, right. It's in 24 asbestos habit. And so I think, you know, for 25 me to understand the minerals, when we're talking</p>

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<p>1 about asbestos, we're talking about a particular 2 kind of mineral that's in a particular form or 3 habit.</p> <p>4 And so I -- I think when you're talking 5 about an asbestos fiber, there's some 6 redundancy there in a way, right, which is that 7 that's a description that you could apply to 8 something that other people would call asbestos.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q All right. Fine. Thank you.</p> <p>11 Has Johnson & Johnson provided you with 12 any testing that they performed on their product?</p> <p>13 MS. BROWN: Objection.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q Shower to Shower or Johnson's Baby 16 Powder.</p> <p>17 MS. BROWN: Objection.</p> <p>18 THE WITNESS: I don't think I have seen 19 anything.</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Did you ever ask Johnson & Johnson to 22 see any of the testing that they performed on 23 their own talcum powder products?</p> <p>24 MS. BROWN: Objection. Asked and 25 answered.</p>	<p>1 would not alter your analysis, and I assume 2 opinions, with regard to talcum powder products 3 causing ovarian cancer.</p> <p>4 A That's in my report?</p> <p>5 Q Yes.</p> <p>6 A Can we flip to that?</p> <p>7 Q Sure. Why don't you go to page 3. 8 And if I may, it's at the bottom, 9 paragraph 6.</p> <p>10 A I'm with you, yeah.</p> <p>11 Q Okay. And it says: "To the extent 12 plaintiffs' expert opined that asbestos is an 13 accessory mineral present in cosmetic talc that 14 causes ovarian cancer, this theory would not alter 15 the analysis because the existing epidemiological 16 literature regarding talc use would 17 necessarily" --</p> <p>18 MS. BROWN: You're reading it --</p> <p>19 MS. PARFITT: Beg your pardon?</p> <p>20 MS. BROWN: You read it wrong. Perineal 21 talc use.</p> <p>22 MS. PARFITT: Oh, I'm sorry. Perineal. 23 Thank you.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q -- "perineal talc use would necessarily</p>
<p>1 THE WITNESS: I have not.</p> <p>2 BY MS. PARFITT:</p> <p>3 Q Okay. Dr. Diette, are you aware that 4 there are generic talcum powder products being 5 sold in the marketplace today that contain an 6 ovarian cancer warning for individuals who use it 7 in their genital area?</p> <p>8 MS. BROWN: Objection to the form --</p> <p>9 THE WITNESS: I don't --</p> <p>10 MS. BROWN: -- lacks foundation, calls 11 for speculation.</p> <p>12 THE WITNESS: I don't know one way or 13 the other.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q Okay. Has Johnson & Johnson shared that 16 information with you?</p> <p>17 MS. BROWN: Same objections.</p> <p>18 THE WITNESS: Well, if they had, I'd be 19 aware of it, right? I mean --</p> <p>20 BY MS. PARFITT:</p> <p>21 Q I would think.</p> <p>22 A Yeah. So it has to be no. Yeah.</p> <p>23 Q Okay. You state in your -- you state in 24 your expert report that the presence of asbestos 25 as an accessory mineral present in cosmetic talc</p>	<p>1 account for the presence of any asbestos in the 2 products used in both studies."</p> <p>3 Did I now read that correctly, with 4 counsel's correction?</p> <p>5 A Yeah, you're -- you've got it right now.</p> <p>6 Q Okay. What do you mean by that 7 statement?</p> <p>8 A So what I -- what I mean generally is 9 that I've reviewed the -- what I think is the 10 whole epidemiology on the -- on the topic, and the 11 studies themselves don't break down or don't do 12 analyses of what the talcum powder is or what it 13 consists of. So to the extent that they've 14 studied talcum powder, to me whatever is in talcum 15 powder is baked into the epidemiology. And so 16 whether asbestos is a fact that it's in there or 17 it's a fact that it's not doesn't really change 18 how to interpret those studies.</p> <p>19 Is that what you're asking?</p> <p>20 Q Mm-hmm.</p> <p>21 A Okay.</p> <p>22 Q Mm-hmm. Is asbestos a carcinogen?</p> <p>23 A It is.</p> <p>24 Q We're going to come back to that. 25 Let me just get on a little bit further</p>

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<p>1 on here.</p> <p>2 Are you going to be giving an opinion in</p> <p>3 this case that Johnson & Johnson's talcum powder</p> <p>4 products contain asbestos?</p> <p>5 A No.</p> <p>6 Q You will not?</p> <p>7 A I will not.</p> <p>8 Q Have you made an assumption then for</p> <p>9 purposes of your opinion that Johnson's -- that</p> <p>10 Johnson & Johnson's talcum powder products do not</p> <p>11 contain asbestos?</p> <p>12 A I -- no, I haven't made that assumption.</p> <p>13 I -- I recognize that there's a debate about that,</p> <p>14 and I don't have the expertise to sort through</p> <p>15 what's right about that debate.</p> <p>16 Q All right. Assume that Johnson &</p> <p>17 Johnson's talcum powder products contain asbestos,</p> <p>18 would that place consumers that use the product in</p> <p>19 needless danger?</p> <p>20 MS. BROWN: Objection. Counsel, that's</p> <p>21 an incomplete hypothetical. Is that the same talc</p> <p>22 that's in the epi?</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Can you answer the question?</p> <p>25 MS. PARFITT: And please don't coach the</p>	<p>1 all over the world, right. And so everything</p> <p>2 comes down to dose in any case, right. So for me</p> <p>3 to be concerned about it, you'd have to show me</p> <p>4 that there's a sufficient dose that a person gets</p> <p>5 in order to raise the risk of whatever it is that</p> <p>6 you're talking about.</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Let me ask you this: Assume Johnson &</p> <p>9 Johnson's talcum powder products has asbestos in</p> <p>10 it. Are you with me?</p> <p>11 A I am, yeah.</p> <p>12 Q All right. Would it be imprudent for</p> <p>13 Johnson & Johnson to sell its talcum powder</p> <p>14 products to consumers to use it in their</p> <p>15 genital -- on their genital areas?</p> <p>16 MS. BROWN: I object to this line of</p> <p>17 question, Counsel. Are you divorcing your</p> <p>18 hypothetical from the epidemiology he has reviewed</p> <p>19 and is here to talk about?</p> <p>20 MS. PARFITT: He didn't answer the</p> <p>21 question, Counsel. Counsel, if he understands --</p> <p>22 he understood the last question, it's the same.</p> <p>23 Thank you.</p> <p>24 MS. BROWN: I object to the entire line</p> <p>25 of questioning.</p>
<p style="text-align: center;">Page 79</p> <p>1 witness.</p> <p>2 MS. BROWN: Objection to the incomplete</p> <p>3 hypothetical.</p> <p>4 THE WITNESS: So, anyway, so the</p> <p>5 needless part, I think -- I'm not sure if you need</p> <p>6 that in your question or whether it changes how I</p> <p>7 would answer it. I think the general issue is</p> <p>8 whether or not there's a risk or whether there's a</p> <p>9 danger. And from what I can tell from reading the</p> <p>10 literature, that there's not a risk of -- did you</p> <p>11 say "ovarian cancer" in your question?</p> <p>12 BY MS. PARFITT:</p> <p>13 Q Correct.</p> <p>14 A Yeah, I don't see that there's a -- a</p> <p>15 risk of ovarian cancer from the literature.</p> <p>16 Q Assume for purposes of my question that</p> <p>17 Johnson & Johnson's talcum powder products has</p> <p>18 asbestos in it, would it be imprudent and not</p> <p>19 reasonable for Johnson & Johnson to sell that</p> <p>20 product to its customers, yes or no?</p> <p>21 MS. BROWN: Objection to the incomplete</p> <p>22 hypothetical.</p> <p>23 THE WITNESS: So I think, you know, it</p> <p>24 isn't a yes or no, right? I mean, because it's --</p> <p>25 if you're talking about asbestos, there's asbestos</p>	<p style="text-align: center;">Page 81</p> <p>1 BY MS. PARFITT:</p> <p>2 Q Please.</p> <p>3 A If we're talking about what exists in</p> <p>4 the world right now, I -- I don't see any issue</p> <p>5 with it.</p> <p>6 Q All right. Do you know who</p> <p>7 Dr. Nicholson is?</p> <p>8 A Which -- which Nicholson?</p> <p>9 Q Susan Nicholson.</p> <p>10 A I'm not sure. Is she an expert in --</p> <p>11 Q She's not. She's actually the -- and</p> <p>12 I'll represent to you, the chief medical officer</p> <p>13 for Johnson & Johnson.</p> <p>14 A Oh, I don't know her.</p> <p>15 Q Okay. Let me represent to you that</p> <p>16 Dr. Nicholson, who is a medical officer for</p> <p>17 Johnson & Johnson, was deposed in this case, this</p> <p>18 same case that we're in together, you and I. Are</p> <p>19 you aware of that?</p> <p>20 A Only because you said so.</p> <p>21 Q Okay. And the deposition that was taken</p> <p>22 of Dr. Nicholson was a deposition that was taken</p> <p>23 wherein she -- we call it a 30(b)(6). That means</p> <p>24 she represents the voice of the company that she</p> <p>25 works for. Understand?</p>

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<p>1 MS. BROWN: Objection to the form of the 2 question. 3 THE WITNESS: I understand what you 4 said. I don't know what I -- if I understand what 5 that means. 6 MS. PARFITT: Okay. All right. Let me 7 have marked as Exhibit -- I believe it's 8 Exhibit No. 6 that we're on. 9 (Diette Exhibit No. 6 was marked 10 for identification.) 11 MS. BROWN: And, Counsel, if you're 12 going to ask him questions about Dr. Nicholson's 13 deposition that he has not reviewed, we need to at 14 least have a full copy of the deposition here. 15 Thanks. 16 MS. PARFITT: I believe you have -- 17 MS. BROWN: And you should take as long 18 as you need to review it to answer any questions 19 counsel might have. 20 MS. PARFITT: Okay. And, Counsel, I'll 21 get you that -- I don't have a copy -- 22 MS. BROWN: We have -- I mean your 23 colleague just -- 24 MS. PARFITT: We have just one. I'm 25 just saying we just have one. I don't have one</p>	<p>1 Q Okay. At the top, if I may, it says -- 2 line 2: "Well" -- and I'll represent to you that 3 I was one of the attorneys that took 4 Dr. Nicholson's deposition. 5 The question is: "Well, if your 6 products contain asbestos, would you agree with me 7 that that impacts the safety of the product?" 8 Answer: "Absolutely, yes." 9 Next question: "Would you agree that 10 Johnson & Johnson has a zero tolerance policy with 11 regard to having asbestos in their talcum powder 12 products?" 13 The answer: "Yeah, that is correct." 14 Next question: "In fact, as a 15 representative of the company, it's your position 16 that your Johnson & Johnson's talcum powder 17 products should not contain asbestos; is that 18 correct?" 19 "That's correct -- that is correct." 20 Next question: "And you would agree 21 with me that if your talcum powder products had 22 asbestos in them, it would place the consumers 23 that use your product in needless danger, 24 correct?" 25 "It could, yes."</p>
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<p>1 for you. 2 MS. BROWN: As long as the doctor has 3 time to review it -- you know he hasn't seen this 4 before. If you're going to ask him questions 5 about it, he needs to read it. 6 MS. PARFITT: Just one. 7 BY MS. PARFITT: 8 Q Dr. Nich- -- or Dr. Diette, let me 9 direct your attention to page 37. 10 A Okay. 11 Q And specifically line 2, and let me read 12 it. We'll put it up on the ELMO. 13 MS. BROWN: Counsel, while you're doing 14 that, I'm going to object to taking one page out 15 of Dr. Nicholson's deposition that the doctor has 16 not reviewed and asking questions out of context. 17 And if he needs to read the whole deposition to 18 answer your question, he will need to do that. 19 MS. PARFITT: Counsel, please not -- 20 let's not coach. 21 MS. BROWN: And I'm objecting on the 22 record to the improper questioning with snippets 23 of somebody else's deposition. 24 MS. PARFITT: Okay. 25 BY MS. PARFITT:</p>	<p>1 Next question on page 48 of that same 2 deposition -- 3 MS. BROWN: Counsel, I'm sorry, but your 4 pages are not matching up to what we've been 5 handed. Can you just direct us -- and we're -- in 6 the snippet you gave us, I can't find this. 7 THE WITNESS: I don't have 48. Mine 8 goes to 41. 9 MS. BROWN: Yeah, mine says 37, 37, 37. 10 THE WITNESS: Maybe here in the whole 11 thing? 12 MR. HEASLIP: And mine is 46 through 53. 13 MS. PARFITT: Okay. 14 MS. BROWN: This is not what you're 15 reading, so it's impossible to follow. 16 Were you able to follow that, Doctor? 17 MS. PARFITT: We have it on the 18 overhead. I think -- 19 MR. ROSEN: I go to -- I go to 41. 20 MS. BROWN: Yeah, well, he needs to have 21 it in front of him. We don't have a copy. 22 MS. PARFITT: Well, let's do this. I 23 have an overhead and an ELMO. So let's keep 24 going. Why don't you read the screen. 25 Do you need me to go back over those</p>

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<p>1 questions?</p> <p>2 MS. BROWN: But, Counsel, that's not</p> <p>3 even a transcript. What is that?</p> <p>4 MS. PARFITT: It's --</p> <p>5 MS. MILLER: How are you going to mark</p> <p>6 that as an exhibit?</p> <p>7 MS. PARFITT: I'm going to put an</p> <p>8 exhibit sticker on it, and I'm going to put it in</p> <p>9 as representative pages from the Nicholson</p> <p>10 deposition.</p> <p>11 MS. BROWN: Can he find it in the large</p> <p>12 copy?</p> <p>13 MR. ROSEN: Would you mind passing</p> <p>14 back Exhibit 6 that we handed --</p> <p>15 THE WITNESS: Oh. This is all of your</p> <p>16 36's. That's a whole bundle of the same thing.</p> <p>17 But I would like to get the 36-page</p> <p>18 back --</p> <p>19 MS. PARFITT: Sure.</p> <p>20 THE WITNESS: -- if we're going to talk</p> <p>21 about it.</p> <p>22 MS. PARFITT: Absolutely. I want you to</p> <p>23 have actually 37, and you need -- here we go.</p> <p>24 MS. BROWN: This is the complete set?</p> <p>25 MS. PARFITT: Yes, I'm assuming.</p>	<p>1 Did I read all that correctly?</p> <p>2 A You did.</p> <p>3 Q All right. Do you -- so you disagree</p> <p>4 with Dr. Nicholson; is that correct?</p> <p>5 MS. BROWN: Objection to the form.</p> <p>6 MR. LOCKE: Objection.</p> <p>7 MS. BROWN: Misstates his testimony.</p> <p>8 THE WITNESS: I don't -- I don't agree</p> <p>9 or disagree. I mean, I -- I honestly don't know</p> <p>10 who she is other than what you just said. But --</p> <p>11 but it sounds like she's articulating a policy for</p> <p>12 the company, which I think is her right -- her</p> <p>13 right to do that and to express those opinions.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q Okay. All right.</p> <p>16 Okay. Now, counsel provided for us in</p> <p>17 advance of this deposition a copy of your CV. So</p> <p>18 let me --</p> <p>19 THE WITNESS: Would it -- would it be a</p> <p>20 good time just to refill coffee? Is that okay?</p> <p>21 MS. PARFITT: Sure. And I should have</p> <p>22 said that. Any time you need a break --</p> <p>23 THE WITNESS: No, I know.</p> <p>24 MS. PARFITT: -- you holler.</p> <p>25 THE WITNESS: Thank you. I appreciate</p>
<p style="text-align: center;">Page 87</p> <p>1 MS. BROWN: You have that in front of</p> <p>2 you?</p> <p>3 THE WITNESS: I do.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q And, Dr. Diette, if you have any trouble</p> <p>6 reading any of that -- or you can also look up on</p> <p>7 the ELMO that's being displayed.</p> <p>8 MS. BROWN: Thank you.</p> <p>9 MS. PARFITT: Okay. Yeah, sorry.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Again, page 48, line 14.</p> <p>12 Do you have that there, Doctor, in front</p> <p>13 of you?</p> <p>14 A I do.</p> <p>15 Q Okay.</p> <p>16 "Q. You would agree, Dr. Nicholson, if</p> <p>17 Johnson & Johnson's Baby Powder indeed had</p> <p>18 asbestos in it, it would be imprudent and not</p> <p>19 reasonable for Johnson & Johnson to sell it to its</p> <p>20 consumers?"</p> <p>21 "A. I would agree with that.</p> <p>22 "Q. Thank you.</p> <p>23 "A. I would not support Johnson &</p> <p>24 Johnson selling a product that contained</p> <p>25 asbestos."</p>	<p style="text-align: center;">Page 89</p> <p>1 that.</p> <p>2 MS. PARFITT: You're very welcome.</p> <p>3 THE VIDEOGRAPHER: The time is 10:07</p> <p>4 p.m. We're going off the record.</p> <p>5 (Recess.)</p> <p>6 THE VIDEOGRAPHER: The time is</p> <p>7 10:20 a.m., and we're back on the record.</p> <p>8 BY MS. PARFITT:</p> <p>9 Q Dr. Diette, are you still --</p> <p>10 THE VIDEOGRAPHER: Microphone, Counsel.</p> <p>11 BY MS. PARFITT:</p> <p>12 Q Are you good?</p> <p>13 A All set. Thank you.</p> <p>14 Q All right. Dr. Diette, if asbestos was</p> <p>15 found to be in talcum powder products -- strike</p> <p>16 that.</p> <p>17 Would the presence of asbestos in talcum</p> <p>18 powder products provide evidence to support the</p> <p>19 hypothesis that talcum powder products -- strike</p> <p>20 that.</p> <p>21 Would the presence of asbestos in talcum</p> <p>22 powder products provide biologically plausible</p> <p>23 evidence to support the hypothesis that talcum</p> <p>24 powder products can cause ovarian cancer?</p> <p>25 MR. LOCKE: Objection.</p>

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<p>1 MS. BROWN: Objection to the form of the 2 question.</p> <p>3 THE WITNESS: You would have to qualify 4 it, right, because I -- if you're talking about 5 like -- even like, you know, one fiber or 6 something would be quite different than if there's 7 a sufficient amount in order to -- to cause a 8 disease, right. So it -- it always comes down to 9 dose in terms of what you're talking about.</p> <p>10 So it's -- all by itself, I don't think 11 that that question is answerable.</p> <p>12 BY MS. PARFITT:</p> <p>13 Q Can one fiber of asbestos alone cause 14 cancer?</p> <p>15 MS. BROWN: Objection to the form.</p> <p>16 THE WITNESS: It's -- it's so impossible 17 to think that it would, because we all have 18 asbestos in our lungs, and there's a background 19 amount of asbestos in the world that if one fiber 20 could do it, I think we would all have cancer. So 21 I -- I think somebody could say that, but I don't 22 think it would be true.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q You certainly don't think it's true; is 25 that correct?</p>	<p>1 papers that have been either accepted or published 2 since then. There's probably some talks and 3 things. The -- the grant award section I'm sure 4 needs updating.</p> <p>5 Q Okay. It looks, on the far right of 6 that CV, that it's got a June 2017 date; is that 7 correct?</p> <p>8 A It is.</p> <p>9 Q All right. Has there been a curriculum 10 vitae prepared by you since June of 2017?</p> <p>11 A No.</p> <p>12 Q All right. Where would I get these 13 additional articles and speeches? Do you have 14 them in a -- contained in one particular place?</p> <p>15 A No. Where -- where you could get the 16 articles would be on PubMed, and if you just did a 17 PubMed search with my name, you would find them 18 all.</p> <p>19 For speeches, I don't actually have a 20 repository, so it's going to take me some work to 21 actually sort of populate that part of the CV.</p> <p>22 Q Are you -- do you have any intention of 23 updating your CV?</p> <p>24 A Yes. Can I give you an extra sentence 25 or two?</p>
<p style="text-align: center;">Page 91</p> <p>1 A Oh, for sure, yeah.</p> <p>2 Q Okay. Let me mark at this time a 3 copy -- a copy of your curriculum vitae, and we'll 4 have it marked as exhibit -- Exhibit 7.</p> <p>5 (Diette Exhibit No. 7 was marked 6 for identification.)</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Do you have that in front of you?</p> <p>9 A I do.</p> <p>10 Q Okay. Who prepared that curriculum 11 vitae?</p> <p>12 A Well, not one person. This is an 13 iterative exercise over time. So it's -- I mean, 14 me in the sense, although not as the person, you 15 know, typing the words, but it's -- you know, it's 16 my -- my information on here. And I've had 17 different administrative assistants who have -- 18 who have helped to sort of shape it.</p> <p>19 Q Is it current?</p> <p>20 A No.</p> <p>21 Q It's not?</p> <p>22 A It's not.</p> <p>23 Q All right. What additions or deletions 24 would you make to your curriculum vitae?</p> <p>25 A For the most part, I'd add a bunch of</p>	<p style="text-align: center;">Page 93</p> <p>1 Q Sure.</p> <p>2 A Okay. So I sure want to. The stakes 3 are low for me at this point. This is our 4 Department of Medicine format CV, which we use for 5 promotion purposes, for the most part. I've been 6 promoted to professor, which there's no other rank 7 to get promoted to. And so it's not really that 8 urgent for me to -- to change that.</p> <p>9 Then on top of that, my administrative 10 assistant went out on maternity leave, and then I 11 didn't want to swamp her with this when she came 12 back.</p> <p>13 Q That was nice.</p> <p>14 A And literally just last week, she took a 15 new job, a better job but in a different place.</p> <p>16 So long answer, yeah, I want to, but 17 it's not going to happen really soon.</p> <p>18 Q Okay. So your current academic 19 appointment at Johns Hopkins University, is that a 20 professor of medicine, is that correct, Division 21 of Pulmonary and Critical Care?</p> <p>22 A Yeah, and I think it's called Pulmonary, 23 Criteria Care and Sleep Medicine now. We just -- 24 we just changed the name recently.</p> <p>25 Q And sleep medicine?</p>

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<p>1 A And sleep, yeah.</p> <p>2 Q All right. Are you still within the</p> <p>3 Department of Epidemiology?</p> <p>4 A Yes.</p> <p>5 Q All right. Are you still an associate</p> <p>6 professor of medicine in epi and environmental</p> <p>7 health?</p> <p>8 A No, that's a typo somewhere. I don't</p> <p>9 know where you saw that, but -- oh, probably in my</p> <p>10 report. But, no, I'm -- the professor label</p> <p>11 carries across all the -- the different entities.</p> <p>12 Q So you're no longer an associate</p> <p>13 professor.</p> <p>14 A Right. Professor of whatever it is that</p> <p>15 I'm a professor of.</p> <p>16 Q All right. Your board certification is</p> <p>17 in pulmonary and critical care?</p> <p>18 A It's in internal medicine and pulmonary</p> <p>19 medicine.</p> <p>20 Q You're not a member of the American</p> <p>21 College of Epidemiology, correct?</p> <p>22 A No.</p> <p>23 Q Your undergraduate degree was in</p> <p>24 English?</p> <p>25 A English and economics.</p>	<p>1 hospital as well.</p> <p>2 Q All right. So if someone were going on</p> <p>3 the website to look at the hospital, the medical</p> <p>4 school, medical center, this is what they would</p> <p>5 see. And look over to the far right, and it has</p> <p>6 "Expertise." Do you see that?</p> <p>7 A I do.</p> <p>8 Q All right. Is -- it reads: "Expertise:</p> <p>9 Asthma, chronic obstructive pulmonary disease</p> <p>10 (COPD), pulmonary" -- excuse me -- "pulmonary</p> <p>11 disease, and critical care medicine, pulmonary</p> <p>12 medicine."</p> <p>13 Is that correct?</p> <p>14 A It is correct.</p> <p>15 Q All right. Is there anything you want</p> <p>16 to add with regard to your expertise?</p> <p>17 MS. BROWN: Objection to the form of the</p> <p>18 question.</p> <p>19 THE WITNESS: So I honestly don't know</p> <p>20 what this is. I mean, I don't doubt that it comes</p> <p>21 from Hopkins, but it's not something I look at.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Okay.</p> <p>24 A If you -- well, no, just one second.</p> <p>25 Because if you look at the bottom, it says</p>
<p style="text-align: center;">Page 95</p> <p>1 Q Okay. And then post-medical school, you</p> <p>2 received a MHS in public health; is that correct?</p> <p>3 A Well, it was in epidemiology.</p> <p>4 Q Okay.</p> <p>5 A I only just say that because there is a</p> <p>6 degree in public health, and that's not what mine</p> <p>7 was called.</p> <p>8 Q Okay. Let me show you what we'll have</p> <p>9 marked as the Johns Hopkins Medicine website as --</p> <p>10 MS. PARFITT: What exhibit?</p> <p>11 MS. BROWN: 8.</p> <p>12 BY MS. PARFITT:</p> <p>13 Q -- Exhibit 8?</p> <p>14 (Diette Exhibit No. 8 was marked</p> <p>15 for identification.)</p> <p>16 BY MS. PARFITT:</p> <p>17 Q All right. Do you have that in front of</p> <p>18 you?</p> <p>19 A I do.</p> <p>20 Q All right. Now, this is for the Johns</p> <p>21 Hopkins Medical School; is that correct, or</p> <p>22 medical center?</p> <p>23 A So I don't know. You know, the top says</p> <p>24 "Johns Hopkins Medicine," which is a broader label</p> <p>25 that includes the medical school and probably the</p>	<p style="text-align: center;">Page 97</p> <p>1 "Request an appointment." So this looks like some</p> <p>2 kind of place that somebody could go and find a</p> <p>3 call-in number to get an appointment for -- for a</p> <p>4 doctor.</p> <p>5 Q Okay.</p> <p>6 A So I think it's -- I don't know. I</p> <p>7 could add all kinds of things, but I don't -- I</p> <p>8 don't know what the format is for this. Like I</p> <p>9 don't know if there is a word limit.</p> <p>10 Q Sorry.</p> <p>11 A I don't know -- I don't know what the</p> <p>12 purpose of this is.</p> <p>13 Q All right. The second line says:</p> <p>14 "Research interests," and it states:</p> <p>15 "Environmental impacts on lung disease,</p> <p>16 epidemiology of airway disease and chronic</p> <p>17 obstructive pulmonary disease, asthma."</p> <p>18 Did I read that correctly?</p> <p>19 A You did.</p> <p>20 Q Does that accurately reflect your</p> <p>21 current research interests?</p> <p>22 MS. BROWN: Objection. Form.</p> <p>23 THE WITNESS: Well, it's some, but it's</p> <p>24 so incomplete. You know, it's obviously just a</p> <p>25 couple of snippets that somebody chose to put on</p>

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<p>1 this -- on this page.</p> <p>2 BY MS. PARFITT:</p> <p>3 Q Okay. Well, I will represent to you</p> <p>4 that if one chose to go on the Johns Hopkins</p> <p>5 Medicine website, this is how they hold you out to</p> <p>6 the -- to the world, so to speak.</p> <p>7 MS. BROWN: Objection to the speech. Is</p> <p>8 there a question?</p> <p>9 THE WITNESS: So --</p> <p>10 MS. PARFITT: Counsel --</p> <p>11 MS. BROWN: There's no question.</p> <p>12 MS. PARFITT: -- please.</p> <p>13 MS. BROWN: Is there a question?</p> <p>14 MS. PARFITT: Yes.</p> <p>15 MS. BROWN: What is it?</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Is this how -- is this information</p> <p>18 correct, Dr. Diette?</p> <p>19 A Oh, the information is correct.</p> <p>20 Q Okay.</p> <p>21 A It's very incomplete.</p> <p>22 Q Okay. Let me show you now what we'll</p> <p>23 have marked as Exhibit 9.</p> <p>24 (Diette Exhibit No. 9 was marked</p> <p>25 for identification.)</p>	<p>1 it to see if it's accurate or not, but there's --</p> <p>2 there's certainly more about me than just those</p> <p>3 couple of --</p> <p>4 Q Okay. Well, you know, that's a good</p> <p>5 point, and I missed that. So thank you for</p> <p>6 bringing that to our attention.</p> <p>7 Let's look at that sec- -- second page</p> <p>8 of the website for Johns Hopkins Medical Center.</p> <p>9 MR. TISI: Counsel, that is Exhibit 8.</p> <p>10 MS. PARFITT: And it is Exhibit 8.</p> <p>11 Thank you.</p> <p>12 Okay. Let's put that up there.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q And there's a category that says</p> <p>15 "Background"; is that correct?</p> <p>16 A It is.</p> <p>17 Q All right. Now, it states:</p> <p>18 "Dr. Gregory Diette is a professor of medicine at</p> <p>19 the Johns Hopkins University School of Medicine.</p> <p>20 He holds a joint appointment in the Department of</p> <p>21 Epidemiology in the Johns Hopkins Bloomberg School</p> <p>22 of Public Health." Hashtag, "His areas of</p> <p>23 clinical expertise include asthma and obstructive</p> <p>24 lung disease."</p> <p>25 Did I read that correctly?</p>
<p>1 THE WITNESS: Can I just -- just</p> <p>2 clarify?</p> <p>3 BY MS. PARFITT:</p> <p>4 Q There's no question pending right now.</p> <p>5 A I want to clarify my last --</p> <p>6 MS. BROWN: But if you want --</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Your counsel will have a chance to -- to</p> <p>9 talk with you.</p> <p>10 MS. BROWN: Whoa, Counsel. Are you</p> <p>11 going to take the position on the record that the</p> <p>12 witness can't clarify any --</p> <p>13 MS. PARFITT: No, I'm not doing that</p> <p>14 all.</p> <p>15 MS. BROWN: Well, that was his request,</p> <p>16 and he wanted to --</p> <p>17 BY MS. PARFITT:</p> <p>18 Q What do you need to do, Doctor? I'm</p> <p>19 sorry.</p> <p>20 A Oh, well, I just -- because we were</p> <p>21 talking about this front page, and I didn't</p> <p>22 realize there were other pages here. This still</p> <p>23 isn't complete, but there's a whole lot here more</p> <p>24 about me than just what was on that front page. I</p> <p>25 just wanted to point to all that. I haven't read</p>	<p>1 A You did.</p> <p>2 Q Okay. Is that correct?</p> <p>3 A That -- that it includes those two</p> <p>4 diseases?</p> <p>5 Q Yes.</p> <p>6 A It does include that.</p> <p>7 Q Okay. And the third paragraph reads:</p> <p>8 "His research interests include environmental</p> <p>9 impacts on lung disease, epidemiology of airway</p> <p>10 disease, and chronic obstructive pulmonary</p> <p>11 disease."</p> <p>12 Did I read that correctly?</p> <p>13 A You did.</p> <p>14 Q All right. And does that reflect some</p> <p>15 of your research interests?</p> <p>16 A It does.</p> <p>17 Q All right. Now, let's move over -- and</p> <p>18 thank you for correcting me on that.</p> <p>19 Now, I will represent to you that</p> <p>20 Exhibit 9 is from the website from the Bloomberg</p> <p>21 School of Public Health.</p> <p>22 Do you have that in front of you?</p> <p>23 A I do.</p> <p>24 Q All right. Now, if one was to go onto</p> <p>25 the website for the Bloomberg School of Public</p>

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<p>1 Health, this is the type of information they would 2 receive, Dr. Diette.</p> <p>3 Look down at the "Overview." Do you see 4 that?</p> <p>5 A I do.</p> <p>6 Q Okay. It says --</p> <p>7 MS. PARFITT: Let's get that up on the 8 ELMO.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q All right. Do you see under "Overview," 11 it says: "My research focuses on identifying 12 factors that cause or provoke asthma. We have 13 been interested especially in air pollutants," 14 parens, "particulate matter, NO₂, secondhand 15 smoke," close parens, "and allergens," parens, 16 "including mouse," close parens, "that are 17 especially problematic in inner city homes. We 18 are studying the effects of these pollutants and 19 allergens on inflammation and oxidative stress. 20 More recently, we have begun examining how dietary 21 patterns, especially a Western diet style -- a 22 Western-style diet, may increase susceptibility to 23 inhalable pollutants and allergens."</p> <p>24 Did I read that correctly?</p> <p>25 A You did.</p>	<p>1 patients who come to you are experiencing?</p> <p>2 MS. BROWN: Objection to the form.</p> <p>3 THE WITNESS: And I'll do my best, and 4 then if it's not what you're looking for, please 5 just ask me to clarify.</p> <p>6 I -- I see probably, you know, almost 7 every single kind of medical problem there is 8 because I -- I attend in so many different 9 locations within the Hopkins system. So meaning 10 that I do work in the intensive care unit where 11 it's every kind of medical problem you could 12 imagine, it just happens to be the sickest of the 13 sick. So it could be any -- any organ system, or 14 not even an organ system, but all sorts of 15 illnesses.</p> <p>16 In the pulmonary clinic, I see -- I 17 certainly see people with asthma and COPD, but I 18 see pretty much any kind of pulmonary disease and 19 get referrals for things that aren't pulmonary 20 diseases. They -- they may be somebody who's got 21 a -- a symptom that turns out not to be a 22 pulmonary disease.</p> <p>23 In the oncology center, when I attend 24 there, I see every kind of cancer patient that at 25 least that Hopkins sees.</p>
<p style="text-align: center;">Page 103</p> <p>1 Q Okay. And then again, under your 2 "Research Interests, it states: "Epidemiology of 3 lung diseases, asthma, COPD" --</p> <p>4 And what's COPD?</p> <p>5 A Chronic obstructive pulmonary disease.</p> <p>6 Q -- "outcomes, environmental," and then 7 it says, "Particulate matter, allergens and health 8 disparities."</p> <p>9 Did I read that correctly?</p> <p>10 A You did.</p> <p>11 Q All right. Does that represent some of 12 your research interests?</p> <p>13 A It does represent some.</p> <p>14 Q Okay. You are a clinician?</p> <p>15 A True.</p> <p>16 Q All right. What is the profile of the 17 types of patients that you see in your practice?</p> <p>18 MS. BROWN: Form.</p> <p>19 THE WITNESS: You want me to just take a 20 stab at it? Because I'm not sure -- is profile --</p> <p>21 MS. BROWN: If you don't understand the 22 question, I'm sure counsel will clarify it.</p> <p>23 MS. PARFITT: I will, sure.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q What is the nature of the diseases that</p>	<p style="text-align: center;">Page 105</p> <p>1 And then I'm also lucky enough to attend 2 on the general internal medicine service, and so 3 there it's really everything, it's all comers. 4 And so it ranges from basically head-to-toe kind 5 of medicine.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Okay. Now, if I arrived at -- for in -- 8 I guess you said the intensive care clinic, and I 9 had a gynecological problem, would I see you?</p> <p>10 MS. BROWN: Objection to the form.</p> <p>11 THE WITNESS: So there's no intensive 12 care clinic, just to be clear. Like a clinic is 13 an outpatient setting. So our intensive care unit 14 is an inpatient setting for critically ill people.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay.</p> <p>17 A So you might or might not end up seeing 18 me, because if we're -- the way that the program 19 works is that -- so, for example, if somebody is 20 pregnant, just giving an example, if it's an early 21 pregnancy, then those patients would end up in our 22 medical ICU. If it's a later pregnancy, then they 23 would go to the -- the obstetrics unit to their -- 24 their own particular unit. And then you might see 25 me if I was consulted into that unit, whether or</p>

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<p>Page 106</p> <p>1 not you were in our -- our unit or not. 2 Q So if I came in with a gynecological 3 problem, they might call you -- you, who are a 4 pulmonologist, they might call you in to consult 5 with me?</p> <p>6 MS. BROWN: Objection to the form of the 7 question and the tone.</p> <p>8 THE WITNESS: Well, I am picking up the 9 tone, which I -- which I think -- I mean, I know 10 you're trying to make a point here. And the 11 question as you asked it is -- the answer is, of 12 course. But I think what you're trying to get at 13 is would they have asked me to come deal with 14 their pregnancy, for example, and I wouldn't be 15 the person dealing with their pregnancy. I would 16 be dealing with something else.</p> <p>17 BY MS. PARFITT:</p> <p>18 Q Okay. All right. Is it fair to say 19 that your practice primarily deals with 20 individuals who have pulmonary and lung disease 21 conditions?</p> <p>22 MS. BROWN: Objection.</p> <p>23 THE WITNESS: I think if you dial back 24 and listen to what I said for those other answers, 25 you would be pretty clear that it isn't just that.</p>	<p>1 certainly interested in pollutants. 2 Q Okay. And more recently, you've 3 expressed a research interest in dietary patterns 4 particularly, and especially a Western diet and 5 how that might increase susceptibility to 6 inhalable pollutants; is that correct? 7 A True. 8 MS. BROWN: Form. 9 BY MS. PARFITT: 10 Q Are you -- have you published recently 11 on that? 12 A I'm sure there's stuff that's come out. 13 Q Well, I only have your CV from 2017, so 14 I'll represent that I'm not seeing something on 15 that CV. 16 Is there something you've done recently? 17 A Yeah, it's a couple of years ago. 18 Q Okay. 19 A I mean the best way to find stuff would 20 be on PubMed. 21 Q All right. You've been retained to 22 serve as an expert for Johnson & Johnson, correct? 23 MS. BROWN: Form. 24 THE WITNESS: That's correct. 25 BY MS. PARFITT:</p>
<p>Page 107</p> <p>1 BY MS. PARFITT: 2 Q Okay. Well, I would include asthma in 3 that as well. 4 MS. BROWN: Same objection. 5 THE WITNESS: Well, include it, but I 6 mean -- but, you know, when I'm on the general 7 internal medicine service, I'm not seeing mostly 8 asthma. I might be seeing somebody with diabetes 9 or a heart attack or pelvic inflammatory disease, 10 you know, to name a GYN problem. I mean it's the 11 whole gamut from head to toe.</p> <p>12 BY MS. PARFITT: 13 Q Is it fair to say your research in 14 public health focuses on factors that cause and 15 provoke asthma? 16 MS. BROWN: Objection to the form of the 17 question. 18 THE WITNESS: It's a focus. 19 BY MS. PARFITT: 20 Q Is it fair to say that you have a 21 particular interest in air pollutants, and that 22 includes secondhand smoke and mouse allergens? 23 A I agree with most of what you said, but 24 not literally the way you said it, because I don't 25 think mouse allergen's a pollutant. So I'm</p>	<p>Page 109</p> <p>1 Q Okay. Do you know what the -- do you 2 have an understanding of what the allegations are 3 against Johnson & Johnson? 4 MS. BROWN: Objection to the form. 5 THE WITNESS: Which -- which ones? 6 BY MS. PARFITT: 7 Q Do you know why you're -- Johnson & 8 Johnson is being sued? 9 MS. BROWN: Objection. 10 Counsel, are you asking a legal 11 question? 12 MS. PARFITT: No. 13 BY MS. PARFITT: 14 Q Do you have any understanding of the 15 allegations or the nature of the lawsuit against 16 Johnson & Johnson, the company that's retained you 17 to provide expert legal testimony? 18 MS. BROWN: Same objection. 19 THE WITNESS: I think, generally 20 speaking, what I understand is that there's an 21 allegation that talcum powder causes ovarian 22 cancer. 23 BY MS. PARFITT: 24 Q Okay. Do you have an understanding of 25 the allegations against Imerys?</p>

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<p>1 MS. BROWN: Objection.</p> <p>2 THE WITNESS: I don't have any separate</p> <p>3 understanding.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q Okay. Do you know who Imerys are -- is</p> <p>6 or are?</p> <p>7 A I'm aware that it's a supply company of</p> <p>8 some sort, but I don't know much more about them.</p> <p>9 Q All right. And do you have an</p> <p>10 understanding of the allegations against the</p> <p>11 Personal Care Products Corporation --</p> <p>12 MS. BROWN: Objection.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q -- otherwise known as the PCPC?</p> <p>15 MS. BROWN: Objection. Calls for</p> <p>16 speculation.</p> <p>17 THE WITNESS: I don't --</p> <p>18 MR. LOCKE: Objection.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q You don't.</p> <p>21 A I don't know who that is.</p> <p>22 Q All right. Have you ever seen a</p> <p>23 complaint in this case?</p> <p>24 MS. BROWN: Objection.</p> <p>25 BY MS. PARFITT:</p>	<p>1 through it quickly and just get a sense of what</p> <p>2 the case is about.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q And then what do you do with it?</p> <p>5 MS. BROWN: Form.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Do you keep it?</p> <p>8 A Oh, not forever. I mean if the case is</p> <p>9 over, then I destroy it with all the other</p> <p>10 materials.</p> <p>11 Q Well, this case is far from over.</p> <p>12 Have -- do you still have --</p> <p>13 MS. BROWN: Counsel, just ask the</p> <p>14 question.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q -- a copy of the complaint?</p> <p>17 MS. MILLER: You asked about a state</p> <p>18 court case.</p> <p>19 MS. PARFITT: No. I said was there --</p> <p>20 hey -- again, hey, ladies, I'm sorry, I think the</p> <p>21 two of you are going to have to agree who is going</p> <p>22 to com- -- who's going to complain -- who's going</p> <p>23 to object. One of you can object.</p> <p>24 MS. BROWN: Well, if you're going to</p> <p>25 complain, I'm going to object.</p>
<p style="text-align: center;">Page 111</p> <p>1 Q And when I say "this case," I'm talking</p> <p>2 about this case of talcum powder products and</p> <p>3 ovarian cancer, be it in an MDL context or a state</p> <p>4 context.</p> <p>5 MS. BROWN: Same objection.</p> <p>6 MS. MILLER: With any complaint, any</p> <p>7 talcum --</p> <p>8 MS. PARFITT: Any -- yeah, has he ever</p> <p>9 seen a complaint in any talcum powder product and</p> <p>10 ovarian cancer case.</p> <p>11 MS. BROWN: Objection to the form.</p> <p>12 THE WITNESS: I'm sure I must have.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q You're sure you must have.</p> <p>15 Is it in the materials that you have</p> <p>16 reviewed for purposes of your -- your deposition</p> <p>17 today or for purposes of the report you prepared?</p> <p>18 A No.</p> <p>19 MS. BROWN: Objection.</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Okay. If you have seen it, what have</p> <p>22 you done with it?</p> <p>23 MS. BROWN: Objection. Vague.</p> <p>24 THE WITNESS: Well, the same thing I do</p> <p>25 with any complaint, which is just to try to read</p>	<p style="text-align: center;">Page 113</p> <p>1 MS. PARFITT: Okay.</p> <p>2 MS. BROWN: Please just ask the</p> <p>3 question. No speeches.</p> <p>4 MS. PARFITT: Then, please, and I --</p> <p>5 listen, I think that we're getting at a crossroads</p> <p>6 here. One person gets to object. And let me</p> <p>7 remind you what the CMO says, because I know you</p> <p>8 know that --</p> <p>9 MS. BROWN: Counsel --</p> <p>10 MS. PARFITT: And I'm not admonishing.</p> <p>11 Let me finish, Counsel --</p> <p>12 MS. BROWN: Don't yell at me.</p> <p>13 MS. PARFITT: -- and then you can speak.</p> <p>14 MS. BROWN: You're raising your tone at</p> <p>15 me.</p> <p>16 MS. PARFITT: Well, the camera will --</p> <p>17 oh, please, don't be so condescending.</p> <p>18 MS. BROWN: Sure, it's going to reflect</p> <p>19 that you're raising your tone.</p> <p>20 MS. PARFITT: I hope -- I hope that the</p> <p>21 Judge sees this because we're probably --</p> <p>22 MS. BROWN: We are well aware of the</p> <p>23 CMO.</p> <p>24 MS. PARFITT: -- going to have to call</p> <p>25 him soon.</p>

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<p>1 MS. BROWN: We are complying with it. 2 We're happy to call the Judge. 3 MS. PARFITT: So the CMO says that you 4 get to say, "Objection. Form." That's what you 5 get to say. 6 You have a wonderful opportunity at the 7 end of this deposition to ask him as many 8 questions as you like, but for right now, my time, 9 my deposition. It's, "Objection. Form." And I 10 really would appreciate that courtesy. I will 11 give it to you, but I would appreciate getting it 12 back. So -- 13 MS. BROWN: And to be clear -- 14 MS. PARFITT: No, Counsel, no more 15 speeches. No more speeches. 16 MS. BROWN: You just made a speech, and 17 I'm going to respond -- 18 MS. PARFITT: No more speeches, Counsel. 19 My deposition. 20 MS. BROWN: No, Counsel. 21 MS. PARFITT: Not your deposition. 22 BY MS. PARFITT: 23 Q Next question I have -- 24 MS. PARFITT: No more questions, 25 Counsel. You want me to depose you?</p>	<p>1 THE WITNESS: Can you say it again? 2 BY MS. PARFITT: 3 Q Sure. 4 A Yeah. 5 Q Have you ever been provided 6 gynecological care or treatment for a woman who 7 has been diagnosed with ovarian cancer? 8 A So there's just a couple of things 9 there, and I think maybe I heard it wrong. 10 Did you say been provided care? 11 Q Have you ever provided -- 12 A Provided. Okay. I'm sorry. I thought 13 you said "been provided." 14 Q No, no, no, no. 15 MS. MILLER: You did say that. 16 THE WITNESS: I thought it sounded like 17 did I get care. I was like -- 18 MS. MILLER: You did -- 19 BY MS. PARFITT: 20 Q No, I -- I don't think you did. 21 A Yeah, right. 22 Q I know, that would have been a very 23 awkward question, wouldn't it? 24 Have you ever provided gynecological 25 care or treatment for a woman who has been</p>
<p style="text-align: center;">Page 115</p> <p>1 MS. BROWN: Counsel, no. You are 2 raising your tone. 3 MS. PARFITT: Counsel -- 4 MS. BROWN: You are yelling at me. 5 MS. PARFITT: -- you know what, I was 6 told a little bit earlier nobody could hear me. 7 So I have lifted my voice, and now I'm using my 8 stage voice. So now everyone can hear me, and now 9 I'm speaking too loud to you. 10 So I'm going to try -- you know, you 11 can't have it both ways. One speaker, one 12 objectioner. Next question. 13 MS. BROWN: The record will reflect that 14 you are making incessant speeches. Please -- 15 BY MS. PARFITT: 16 Q Are you an oncologist, Dr. Diette? 17 A I am not an oncologist. 18 Q Are you a radiation oncologist? 19 A No. 20 Q Are you a gynecologist? 21 A No. 22 Q Okay. Have you ever provided 23 gynecological care or treatment for a woman who 24 has been diagnosed with ovarian cancer? 25 MS. BROWN: Objection. Form.</p>	<p style="text-align: center;">Page 117</p> <p>1 diagnosed with ovarian cancer? 2 A Sure. And I think it goes back to some 3 of the things I said before where I see people in 4 the hospital who have ovarian cancer, and through 5 my training, you know, for medical school and 6 residency, that was part of our training also, 7 which was to rotate on services where people 8 had every -- every imaginable illness. 9 Q Okay. Well, your residency was how long 10 ago? 11 MS. BROWN: Objection. 12 THE WITNESS: My residency was 1990 to 13 1993. 14 BY MS. PARFITT: 15 Q Okay. So I'm not talking about what you 16 did in 1993, back in that period of time. 17 What I'm talking about is whether or not 18 you have actually provided gynecological care to a 19 woman who presented to you with ovarian cancer? 20 MS. BROWN: Objection to the form. 21 Asked and answered five times. 22 You can answer, Dr. Diette. 23 BY MS. PARFITT: 24 Q And by that, primary care. Not in a consulting role but primary care.</p>

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<p>1 MS. BROWN: Same objection. 2 THE WITNESS: I think I know your 3 question, but could you be specific like -- 4 BY MS. PARFITT: 5 Q Sure. 6 A -- like just an example, and then I'll 7 know that we're talking about the same thing. 8 Q Okay. Have you ever provided primary 9 care, gynecological care or treatment for a woman 10 who has been diagnosed with ovarian cancer? 11 A So -- 12 MR. LOCKE: Objection. 13 THE WITNESS: -- I'm not trying to 14 criticize the question, but primary care sounds 15 like something that a -- like a family 16 practitioner or an internist would do. I think 17 you mean something else, so -- 18 BY MS. PARFITT: 19 Q I do. Okay. What I'm talking about is 20 if I called up Johns Hopkins and said, I have been 21 diagnosed with ovarian cancer, I need to see a 22 physician, would I be referred to the pulmonology 23 department, your department, or would I be 24 referred to a different department? 25 MS. BROWN: Objection to the form.</p>	<p>1 hygienist? 2 A No. 3 Q Okay. Are you what's referred to as a 4 mineralogist or a mineral scientist specialist? 5 A Neither one. 6 Q Are you a geologist? 7 A No. 8 Q Okay. Is it fair to say that you do not 9 hold yourself out in the scientific and medical 10 community as an expert with regard to testing 11 standards of particulate matter, toxins or 12 carcinogens? 13 A I think that sounds right. 14 Q And that would include testing of 15 minerals -- or, excuse me, that would include 16 testing of asbestos? 17 MS. BROWN: Objection to the form. 18 THE WITNESS: Correct. 19 BY MS. PARFITT: 20 Q And that would include testing of talcum 21 powder products? 22 A That I -- I don't do that, is that 23 right? 24 Q Right. 25 A Yeah, that's correct.</p>
<p style="text-align: center;">Page 119</p> <p>1 THE WITNESS: Different department, 2 assuming it's literally for the care of the 3 ovarian cancer. 4 BY MS. PARFITT: 5 Q Okay. Fair. Thank you. 6 Have you ever researched the life 7 expectancy of a woman who has ovarian cancer? 8 A No. 9 MS. BROWN: Objection to the form. 10 BY MS. PARFITT: 11 Q Are you a pathologist? 12 A I am not. 13 Q All right. And are you a radiologist? 14 A I am not. 15 Q Okay. Are you a mineralogist? 16 A No. 17 Q Are you a toxicologist? 18 A No. 19 Q Are you a pharmacologist? 20 A No. 21 Q Okay. Are you a regulatory expert? 22 A I don't know what that means, but I 23 don't -- I don't use those words to describe 24 myself. 25 Q Okay. Are you a certified industrial</p>	<p style="text-align: center;">Page 121</p> <p>1 Q All right. Let's talk a little bit 2 about your publications and your research. 3 Let me direct your attention to -- I 4 believe this is Appendix C of your CV, which I 5 believe is Exhibit 7. 6 Do you have that in front of you? 7 A I do. 8 Q Okay. I understand, now that I have a 9 CV that's dated June of 2017, and the CV I have, 10 it says that you've published approximately 167 11 publications in peer-reviewed literature. 12 Is that correct or incorrect? 13 A It was probably true as of June 2017. 14 Q All right. So sitting here today in 15 April of 2019, approximately how many publications 16 in peer-reviewed journals have you published? 17 A I think if you look on PubMed, you will 18 see more than 200. 19 Q Okay. Is it fair to say that you've 20 published no papers or studies in the peer- 21 reviewed literature about asbestos or asbestos- 22 related diseases? 23 A Correct. 24 Well, can you ask that as two different 25 questions?</p>

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<p>1 Q Sure.</p> <p>2 A I can help you just clarify what I --</p> <p>3 what I'm trying to answer.</p> <p>4 Q Please.</p> <p>5 A So nothing about asbestos, but if you --</p> <p>6 if you consider asbestos-related diseases to</p> <p>7 include lung cancer, for example, that there are</p> <p>8 publications that bear on lung cancer, and there's</p> <p>9 at least one article, maybe more, on interstitial</p> <p>10 lung diseases, and asbestosis would be an</p> <p>11 interstitial lung disease.</p> <p>12 Q Okay. Can you tell me what those</p> <p>13 articles are?</p> <p>14 A Let's see. Would the -- how do you want</p> <p>15 me to do it, like the number?</p> <p>16 Q If you give me the number, that would be</p> <p>17 fine.</p> <p>18 A Yeah. So number 5 has to do with lung</p> <p>19 cancer.</p> <p>20 Q Now, does that have to do with lung</p> <p>21 cancer and asbestos exposure?</p> <p>22 A No, not specifically.</p> <p>23 Q All right. So that has -- that is not</p> <p>24 lung cancer and asbestos.</p> <p>25 All right. Is there another one?</p>	<p>1 THE WITNESS: So that's a different</p> <p>2 question. So the answer to that is no.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q All right. Have you published any</p> <p>5 papers in the peer-reviewed literature on</p> <p>6 mesothelioma?</p> <p>7 A No.</p> <p>8 Q All right. So nowhere in the 200</p> <p>9 publications that you have prepared would I see</p> <p>10 the word "mesothelioma"?</p> <p>11 A I can't promise that you won't see that</p> <p>12 word in some paper, but there's not a paper whose</p> <p>13 primary topic is about mesothelioma.</p> <p>14 Q All right. Very good.</p> <p>15 Having reviewed your 200 or so</p> <p>16 publications, is it fair to say that there are no</p> <p>17 peer-reviewed publications regarding the subject</p> <p>18 matter of ovarian cancer?</p> <p>19 A That's correct.</p> <p>20 Q Is it fair to say that none of your</p> <p>21 peer-reviewed papers address a diagnosis of</p> <p>22 ovarian cancer?</p> <p>23 MS. BROWN: Objection. Form. I don't</p> <p>24 understand that.</p> <p>25 THE WITNESS: Well, I think -- I think</p>
<p style="text-align: center;">Page 123</p> <p>1 A Yeah, so if you look at number 6, this</p> <p>2 is, you know, a study about evaluating lung masses</p> <p>3 and large lymph nodes.</p> <p>4 Q Yes.</p> <p>5 A So that would include, you know, lung</p> <p>6 cancer in that as well.</p> <p>7 Q Does that include asbestos and lung</p> <p>8 cancer?</p> <p>9 A Not specifically.</p> <p>10 Q All right. Any others?</p> <p>11 A I would say any of the ones where you</p> <p>12 see the word "bronchoscopy," it has something to</p> <p>13 do with lung cancer for the most part, though not</p> <p>14 literally lung cancer and asbestos.</p> <p>15 So, for example, like 21, number 2,</p> <p>16 number 3, you know, all sort of have some bearing</p> <p>17 on at least the -- you know, the care or</p> <p>18 management of people with suspected lung cancer or</p> <p>19 who actually have lung cancer.</p> <p>20 Q Dr. Diette, my question is very specific</p> <p>21 to publications in the peer-reviewed journal that</p> <p>22 deal with the topic of asbestos or asbestos-</p> <p>23 related diseases like lung cancer where the word</p> <p>24 "asbestos" appears in your publication.</p> <p>25 MS. BROWN: Objection to the form.</p>	<p style="text-align: center;">Page 125</p> <p>1 the answer to the one before encompasses, you</p> <p>2 know, something else with the word "ovarian</p> <p>3 cancer" in the question.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q Okay. All right. Have you published</p> <p>6 any peer-reviewed publications that talk about the</p> <p>7 causes of ovarian cancer?</p> <p>8 MS. BROWN: Objection.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Have you published any peer-reviewed</p> <p>12 papers that talk about risk factors for ovarian</p> <p>13 cancer?</p> <p>14 MS. BROWN: Same objection.</p> <p>15 THE WITNESS: No.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Have you published any publications in</p> <p>18 the peer-reviewed journal on risk factors for</p> <p>19 mesothelioma?</p> <p>20 A No.</p> <p>21 Q What causes mesothelioma?</p> <p>22 A A few things. You know, asbestos in</p> <p>23 sufficient dose can do it. Radiation can do it.</p> <p>24 There's some other minerals that aren't asbestos</p> <p>25 that are suspected to do it. It can arise on its</p>

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<p>1 own spontaneously. And, you know, there's 2 thoughts of, at least in the peritoneum, about 3 certain kinds of chronic inflammation that may 4 lead to that as well.</p> <p>5 Q Okay. Can asbestos cause lung cancer? 6 A Yes. In a sufficient dose.</p> <p>7 Q Okay. Is it fair to say that you have 8 not published in the peer-reviewed literature any 9 studies on talcum powder products as a causative 10 factor for ovarian cancer?</p> <p>11 A That is correct.</p> <p>12 Q Is it fair to say that you have not 13 published in the peer-reviewed journal any studies 14 with regard to talcum powder products as a risk 15 factor for ovarian cancer?</p> <p>16 A That's correct.</p> <p>17 Q Is it fair to say to say that there are 18 no publications in your peer-reviewed literature 19 on the subject of talcum -- of talc as a source of 20 asbestos fibers?</p> <p>21 MS. BROWN: Objection. Counsel, I think 22 you just misspoke. Do you mean on his CV?</p> <p>23 MS. PARFITT: I'm sorry? I did.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Is it fair to say --</p>	<p>1 A Right, are there -- no.</p> <p>2 Q Okay. I noted in your CV or in some of 3 the readings that you are currently involved in 4 some clinical trials.</p> <p>5 Did I -- did I get that correct?</p> <p>6 A I have been involved in trials.</p> <p>7 Q Something recent?</p> <p>8 A Oh, all the time.</p> <p>9 Q Okay. Are you currently involved in any 10 clinical trial --</p> <p>11 A Yeah.</p> <p>12 Q -- trials?</p> <p>13 Okay. Do any of them deal with the 14 subject of asbestos?</p> <p>15 A No.</p> <p>16 Q Do any of your trials or research deal 17 with the subject of talcum powder products?</p> <p>18 A No.</p> <p>19 Q All right. Do you currently have 20 ongoing any research work in the area of asbestos?</p> <p>21 MS. BROWN: Objection to the form.</p> <p>22 THE WITNESS: No.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Do you currently have ongoing in any of 25 your research work on the topic of mesothelioma?</p>
<p>1 MS. PARFITT: Thank you.</p> <p>2 BY MS. PARFITT:</p> <p>3 Q Is it fair to say that there are no 4 peer-reviewed publications in your CV that discuss 5 the subject as -- of talc as a source of asbestos 6 fibers?</p> <p>7 A Correct.</p> <p>8 Q Is it fair to say there are no 9 publications in a peer-reviewed journal contained 10 in your curriculum vitae regarding the association 11 or relationship between talcum powder products and 12 ovarian cancer?</p> <p>13 MS. BROWN: Objection to the form of the 14 question.</p> <p>15 THE WITNESS: Correct.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Are there any publications in -- 18 peer-reviewed publications on your curriculum 19 vitae regarding the association or relationship 20 between asbestos and ovarian cancer?</p> <p>21 MS. BROWN: Objection. Asked and 22 answered.</p> <p>23 THE WITNESS: You said are there any --</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Asbestos.</p>	<p>1 A No.</p> <p>2 Q Do you currently have any research work 3 ongoing on the topic of talcum powder products?</p> <p>4 A No.</p> <p>5 Q Do you currently have any research in 6 the works with regard to work on -- work on 7 ovarian cancer?</p> <p>8 A No.</p> <p>9 MS. BROWN: Objection to the form.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Okay. Would it be fair to say that the 12 only report that you have prepared on the topic of 13 talcum powder products and ovarian cancer would be 14 your litigation report --</p> <p>15 MS. BROWN: Object --</p> <p>16 BY MS. PARFITT:</p> <p>17 Q -- in the multidistrict litigation?</p> <p>18 MS. BROWN: Objection to the form, 19 misstates his testimony.</p> <p>20 THE WITNESS: I doubt it's the only 21 report. But I certainly did prepare a report for 22 this.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Okay. How many reports have you 25 prepared on the issue of talcum powder products</p>

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<p>1 and ovarian cancer?</p> <p>2 MS. BROWN: Objection to the form.</p> <p>3 Litigation?</p> <p>4 MS. PARFITT: Litigation reports.</p> <p>5 THE WITNESS: Like less than ten, and --</p> <p>6 and I may be getting the terminology wrong. I</p> <p>7 think there's like a couple of affidavits that I</p> <p>8 think to me are like a report. So I don't know --</p> <p>9 BY MS. PARFITT:</p> <p>10 Q That's a good clarification.</p> <p>11 MS. BROWN: Well, let him finish. Let</p> <p>12 him finish.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q I was trying to clarify for you, Doctor.</p> <p>15 MS. BROWN: Right, but just let him</p> <p>16 finish and then you can clarify.</p> <p>17 MS. PARFITT: Counsel, I will. Please.</p> <p>18 THE WITNESS: But -- but that's what I</p> <p>19 meant, so there's -- there's other things that</p> <p>20 I've sort of written in the litigation work that</p> <p>21 are other than just this report that we're looking</p> <p>22 at here today.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Okay. So your understanding of what you</p> <p>25 have prepared in written form on talcum powder</p>	<p>1 BY MS. PARFITT:</p> <p>2 Q Okay. So the record is clear and I'm</p> <p>3 clear --</p> <p>4 A Yeah.</p> <p>5 Q -- the only report that you have</p> <p>6 prepared dealing with the -- your evaluation of</p> <p>7 the epidemiology on talcum powder products and</p> <p>8 ovarian cancer is the report that we have marked</p> <p>9 as exhibit -- I guess we haven't had it marked</p> <p>10 yet, but is the report that you filed in this</p> <p>11 case; is that right?</p> <p>12 MS. BROWN: Objection. Misstates his</p> <p>13 testimony.</p> <p>14 MS. MILLER: When you say "report," do</p> <p>15 you mean depositions?</p> <p>16 MS. PARFITT: Counsel, I -- I know --</p> <p>17 we'll get to it. You'll get a -- you'll get a</p> <p>18 question.</p> <p>19 MS. MILLER: It's not about us having a</p> <p>20 question. It's about you asking fair questions.</p> <p>21 MR. TISI: Well, it's not -- her job --</p> <p>22 I'm going to jump in here because --</p> <p>23 MS. PARFITT: Okay. Right.</p> <p>24 MR. TISI: -- now you're double teaming.</p> <p>25 I assume you have competent counsel defending this</p>
<p style="text-align: center;">Page 131</p> <p>1 products and ovarian cancer would be, one,</p> <p>2 affidavits. Correct?</p> <p>3 A Correct.</p> <p>4 Q And two, a legal expert report or more?</p> <p>5 MS. BROWN: Form.</p> <p>6 THE WITNESS: Correct.</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Okay. Do you know whether or not you</p> <p>9 have prepared any legal expert reports like the</p> <p>10 one you prepared here in the MDL?</p> <p>11 MS. BROWN: Objection to the form.</p> <p>12 THE WITNESS: Well, on any topic?</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Affidavits -- no, on ovarian cancer and</p> <p>15 talcum powder products.</p> <p>16 A I don't think I --</p> <p>17 MS. BROWN: I object.</p> <p>18 THE WITNESS: I'm sorry.</p> <p>19 Yeah, I don't know if I've completed</p> <p>20 another -- another report, although I'm just</p> <p>21 trying to think if there was like -- like a case-</p> <p>22 specific report that might have had something in</p> <p>23 it. I mean not a report like this one, meaning</p> <p>24 where -- where the whole topic is just about</p> <p>25 the -- the epidemiology and so forth.</p>	<p style="text-align: center;">Page 133</p> <p>1 deposition. Honestly, you did this last week, and</p> <p>2 you've done it in every deposition, and you in</p> <p>3 particular, and you have a real problem with</p> <p>4 obstructing depositions. You need to stop.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Okay. Dr. Diette, I'll try and break it</p> <p>7 down, and I'm just trying to -- this isn't a trick</p> <p>8 question. So you let me know if you don't</p> <p>9 understand my question.</p> <p>10 MS. BROWN: And, Counsel, in all</p> <p>11 seriousness, in an effort to help, are you meaning</p> <p>12 to include or exclude the Ingham affidavit, which</p> <p>13 I think is the --</p> <p>14 MS. PARFITT: I haven't gotten to it. I</p> <p>15 really haven't gotten to it. That's -- that's --</p> <p>16 I'm hoping that the doctor knows what he -- what</p> <p>17 he's filed.</p> <p>18 Let's have marked as Plaintiffs' Exhibit</p> <p>19 No. 10.</p> <p>20 (Diette Exhibit No. 10 was marked</p> <p>21 for identification.)</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Okay. Dr. Diette, let me present you</p> <p>24 with an "Expert Report of Gregory Diette for</p> <p>General Causation Daubert Hearing." Okay.</p>

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<p>1 A That's this --</p> <p>2 Q Do you see that?</p> <p>3 A That's this one for here?</p> <p>4 Q Correct.</p> <p>5 A Yes.</p> <p>6 Q All right. Now, you've identified on 7 the record that the report I have handed you, 8 which is Exhibit No. 10, is a copy of your federal 9 court expert report in the matter of -- dealing 10 with the issues of talc and ovarian cancer, 11 correct?</p> <p>12 A Exactly right.</p> <p>13 Q And in addition to that report, you have 14 prepared some affidavits in the past also 15 addressing the topic of talcum powder products and 16 ovarian cancer, correct?</p> <p>17 A That's correct.</p> <p>18 Q Okay. Have you prepared any reports on 19 talcum powder products and ovarian cancer outside 20 of the legal context?</p> <p>21 MS. BROWN: Objection to the form.</p> <p>22 THE WITNESS: No.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Okay. And have you provided any other 25 type of written report in a legal context, aside</p>	<p>1 BY MS. PARFITT: 2 Q That's correct. 3 A Oh, yeah, so then, no, nothing -- 4 nothing for which I've been disclosed. 5 Q Okay. But I take it that you have been 6 retained -- you're currently retained to work on 7 some other cases other than talcum powder products 8 and ovarian cancer, is that correct, by Johnson & 9 Johnson?</p> <p>10 MS. BROWN: Counsel, I'm going to -- to 11 the extent you're asking about consulting 12 engagements, I'm going to instruct him not to 13 answer.</p> <p>14 BY MS. PARFITT: 15 Q No, I'm asking this: Are you an expert 16 on behalf of Johnson & Johnson and asbestos and -- 17 and ovarian cancer cases?</p> <p>18 A So there's a subtlety there, right, 19 because -- I mean you may call this an asbestos 20 and ovarian cancer case. I think it's a talcum 21 powder and ovarian cancer case.</p> <p>22 Q Okay.</p> <p>23 A There's nothing that's about asbestos 24 separately from what we're talking about here.</p> <p>25 Q Fair enough. Have you been retained by</p>
<p style="text-align: center;">Page 135</p> <p>1 from affidavits and the MDL report that you have 2 in front of you?</p> <p>3 MS. BROWN: Form.</p> <p>4 BY MS. PARFITT: 5 Q On talcum powder products and ovarian 6 cancer. I'm just trying to find out your world.</p> <p>7 A No, I understand. And I'm not sure if 8 there could be like a work in progress. But 9 you're talking about completed, completed like 10 products like this, right?</p> <p>11 Q Correct.</p> <p>12 A I -- I can't think of another one.</p> <p>13 Q Okay. Do you have another report and/or 14 affidavit in progress in the talcum powder 15 products cases and ovarian cancer?</p> <p>16 MS. BROWN: Dr. Diette, I'm going to 17 instruct you to the extent you're doing any work 18 on this issue that is in a consulting nature and 19 has not been disclosed, you should not disclose 20 that here.</p> <p>21 I assume counsel is only asking for 22 situations in which you have been disclosed as an 23 expert, and with that, you can answer the 24 question.</p> <p>25 THE WITNESS: Is that right?</p>	<p style="text-align: center;">Page 137</p> <p>1 Johnson & Johnson to testify as a legal expert in 2 any talcum powder product cases and meso- -- 3 mesothelioma?</p> <p>4 A Yes.</p> <p>5 Q Okay. Are you currently an expert in 6 any of those cases?</p> <p>7 A Yes.</p> <p>8 Q How many?</p> <p>9 MS. BROWN: And again, Doctor, to the 10 extent you've been disclosed, you can answer the 11 question.</p> <p>12 THE WITNESS: So I don't -- I don't know 13 the count then. I would estimate ten, but I could 14 be off by a couple.</p> <p>15 BY MS. PARFITT: 16 Q Have you given depositions in those 17 cases yet?</p> <p>18 A In some cases I have.</p> <p>19 Q Okay. Is this the first deposition that 20 you have given in talcum powder products and 21 ovarian cancer?</p> <p>22 MS. BROWN: Objection.</p> <p>23 THE WITNESS: I don't think so.</p> <p>24 BY MS. PARFITT: 25 Q Okay. Did you give testimony in the</p>

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<p>1 Ingham case?</p> <p>2 A I did.</p> <p>3 Q Okay. Did you testify at trial at the</p> <p>4 Ingham case?</p> <p>5 A I did not.</p> <p>6 Q Okay. Is there any other case other</p> <p>7 than the Ingham case where you have given</p> <p>8 deposition in an ovarian cancer and a talcum</p> <p>9 powder case?</p> <p>10 A I think there's at least one other one.</p> <p>11 Q Okay. Do you remember the name of it?</p> <p>12 A I don't. I could look at my testimony</p> <p>13 list and see if I can figure it out.</p> <p>14 Q Okay. And we'll have that marked as</p> <p>15 well. Why don't we have that marked as Diette</p> <p>16 Exhibit -- it's part of your exhibit number --</p> <p>17 it's part of your report, but we'll have it marked</p> <p>18 as a separate exhibit.</p> <p>19 (Counsel conferring.)</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Let me show you what's -- we'll have</p> <p>22 marked as Exhibit No. 11.</p> <p>23 (Diette Exhibit No. 11 was marked</p> <p>24 for identification.)</p> <p>25 BY MS. PARFITT:</p>	<p>1 yes.</p> <p>2 Q Okay. The last date I have here is</p> <p>3 September 28, '18.</p> <p>4 A No. It should go further.</p> <p>5 MS. BROWN: We have another page,</p> <p>6 Counsel.</p> <p>7 MS. PARFITT: Okay.</p> <p>8 THE WITNESS: I think it's two-sided, so</p> <p>9 it's the back of that page.</p> <p>10 MS. PARFITT: Okay. Well --</p> <p>11 MS. BROWN: Do you want my copy?</p> <p>12 MS. PARFITT: That would be great. I</p> <p>13 appreciate that. I will give it right back to</p> <p>14 you.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. All right. So the last date is</p> <p>17 February 22nd, 2019; is that correct?</p> <p>18 A That is.</p> <p>19 Q All right. Are you able to circle for</p> <p>20 me which cases are cases in which you have been</p> <p>21 retained as an expert in the -- on the topic of</p> <p>22 talcum powder products and ovarian cancer?</p> <p>23 MS. BROWN: Objection to the form.</p> <p>24 You can answer to the extent you know,</p> <p>25 Doctor.</p>
<p style="text-align: center;">Page 139</p> <p>1 Q All right. Let me show you what's</p> <p>2 Exhibit 11.</p> <p>3 MS. PARFITT: We have a copy for</p> <p>4 counsel.</p> <p>5 MS. BROWN: Thank you.</p> <p>6 MR. ROSEN: I think there's --</p> <p>7 THE WITNESS: Oh, there's two.</p> <p>8 MS. PARFITT: Oh, okay, we'll take one</p> <p>9 back. Thank you. Okay. Very good.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Dr. Diette, does this represent an</p> <p>12 accurate list of cases in which you have been</p> <p>13 retained as an expert since I believe 2014?</p> <p>14 A It is.</p> <p>15 Q All right. Are there any additions to</p> <p>16 this list of cases --</p> <p>17 A I'm sorry.</p> <p>18 Q -- where you've given testimony?</p> <p>19 A I'm sorry. I think I -- I wasn't paying</p> <p>20 attention to your last question.</p> <p>21 Q That's all right.</p> <p>22 A Did you say is this a list of cases that</p> <p>23 I provided depositions?</p> <p>24 Q Expert testimony.</p> <p>25 A Expert testimony. Then the answer is</p>	<p style="text-align: center;">Page 141</p> <p>1 THE WITNESS: I actually don't. I'd</p> <p>2 have to look it up to figure out if I'm right that</p> <p>3 there is one on here, but I don't know -- and</p> <p>4 other than Ingham, right?</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Yes, sir.</p> <p>7 A Other than Ingham, yeah, so I -- I'm not</p> <p>8 sure. I can't tell.</p> <p>9 Q All right. Have you -- we talked about</p> <p>10 your peer-reviewed publications. Are any of your</p> <p>11 public -- peer-reviewed publications discussing</p> <p>12 cohort studies?</p> <p>13 MS. BROWN: Objection to the form.</p> <p>14 THE WITNESS: So some of them are cohort</p> <p>15 studies.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q But you have performed --</p> <p>18 MS. BROWN: Let him answer, please.</p> <p>19 MS. PARFITT: Sure.</p> <p>20 THE WITNESS: That I performed, yes.</p> <p>21 BY MS. PARFITT:</p> <p>22 Q All right. So in your carrier as a</p> <p>23 medical doctor, you have published cohort studies?</p> <p>24 A I have.</p> <p>25 Q What have been the general topics of</p>

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<p>1 those cohort studies?</p> <p>2 A Generally speaking, things related to</p> <p>3 respiratory diseases and -- and things people</p> <p>4 inhale.</p> <p>5 Q All right. Have you published case-</p> <p>6 control studies?</p> <p>7 A I don't know. I can't think of one. It</p> <p>8 doesn't mean that there isn't one, but I'm -- I</p> <p>9 can't think of a case-control study.</p> <p>10 Q All right. Is it fair to say that none</p> <p>11 of the published cohort studies address the issue</p> <p>12 of talcum powder products and ovarian cancer?</p> <p>13 A Correct.</p> <p>14 Q And is it fair to say that none of the</p> <p>15 cohort studies that you published address the</p> <p>16 issue of talcum powder products and mesothelioma?</p> <p>17 A Correct.</p> <p>18 Q Is it fair to say that none of the</p> <p>19 cohort studies that you have published address the</p> <p>20 issue of asbestos and mesothelioma?</p> <p>21 A Correct.</p> <p>22 Q Is it fair to say that -- that the</p> <p>23 majority of your publications in your -- listed in</p> <p>24 your curriculum CV and those that you said you</p> <p>25 have published since 2017 deal primarily in the</p>	<p>1 MS. BROWN: Wait. Hold on. Is that a</p> <p>2 question?</p> <p>3 MS. PARFITT: Mm-hmm.</p> <p>4 MS. BROWN: I didn't understand that.</p> <p>5 If you understood it, you can answer.</p> <p>6 THE WITNESS: Well, the papers I was</p> <p>7 thinking about had to do with methods and</p> <p>8 quality -- quality assessment in terms of</p> <p>9 healthcare.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Okay.</p> <p>12 A I don't know if I've published anything</p> <p>13 on epi methods, meaning like, you know, the topic</p> <p>14 of a case-control study or --</p> <p>15 Q Right.</p> <p>16 A -- cohort studies, things of that sort.</p> <p>17 Q So it would be fair to say that you have</p> <p>18 not published in a peer-reviewed journal a paper</p> <p>19 on study designs, correct?</p> <p>20 MS. BROWN: Objection to the form.</p> <p>21 THE WITNESS: I would have to look back</p> <p>22 and see. I mean it's -- it's possible I've been</p> <p>23 involved in something that -- that -- I mean it's</p> <p>24 just hard to remember. It's 200 plus papers,</p> <p>25 so --</p>
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<p>1 research interests of lung disease, COPD,</p> <p>2 asthma --</p> <p>3 MS. BROWN: Objection --</p> <p>4 BY MS. PARFITT:</p> <p>5 Q -- pulmonary medicine, lung diseases?</p> <p>6 MS. BROWN: Objection to the form.</p> <p>7 THE WITNESS: There's certainly plenty</p> <p>8 there. You know, I get different feedback from</p> <p>9 different people who look at my CV to tell whether</p> <p>10 or not it's, you know, all that or whether there's</p> <p>11 other things. I think people read into it what</p> <p>12 they -- what they see. Because there's -- you</p> <p>13 know, there's ICU research topics, there's</p> <p>14 procedure-related topics, there's radiology</p> <p>15 topics. I mean there's all -- all sorts of</p> <p>16 different things besides those.</p> <p>17 BY MS. PARFITT:</p> <p>18 Q Okay. Do you publish on methods and</p> <p>19 methodology?</p> <p>20 MS. BROWN: Form.</p> <p>21 THE WITNESS: So I think there's a</p> <p>22 couple of methods -- methods related papers.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Papers that deal primarily with</p> <p>25 epidemiological methodology?</p>	<p>1 BY MS. PARFITT:</p> <p>2 Q Right. So nothing you can remember</p> <p>3 today.</p> <p>4 A Correct.</p> <p>5 Q Okay. And have you published on the</p> <p>6 Bradford Hill factors?</p> <p>7 MS. BROWN: Form.</p> <p>8 MR. LOCKE: Objection.</p> <p>9 THE WITNESS: So I've not written a</p> <p>10 paper about Bradford Hill.</p> <p>11 BY MS. PARFITT:</p> <p>12 Q All right. In any of the 200 papers</p> <p>13 that you have published in a peer-reviewed</p> <p>14 journal, do you set forth in those papers the</p> <p>15 Bradford Hill framework?</p> <p>16 MS. BROWN: Objection to the form of the</p> <p>17 question.</p> <p>18 THE WITNESS: You couldn't do it.</p> <p>19 Right. I mean, it's -- the papers that I write</p> <p>20 are primary research papers, and that framework</p> <p>21 doesn't belong in those papers, but we articulate</p> <p>22 the -- the issues that are -- that are relevant</p> <p>23 for a Bradford Hill analysis.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Okay. Well, in this expert report that</p>

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<p>1 you did file in the federal court, you stated 2 specifically that you followed the Bradford Hill 3 framework. Do you recall saying that? 4 A I -- I do. There was more to it, but it 5 included that.</p> <p>6 Q Okay. So what I'm asking you, in any of 7 the papers, whether they be cohort study, case 8 control, other research and scientific 9 publications that you've listed on your curriculum 10 vitae, have you stated in those papers that you 11 are following or are guided by the Bradford Hill 12 framework?</p> <p>13 MS. BROWN: Objection. He just answered 14 that.</p> <p>15 THE WITNESS: Yeah, it's sort of baked 16 into what we do. So it's like in -- I mean the 17 answer is no, generally, but -- but we include 18 things in a way that they fit with what Bradford 19 Hill considerations are. But there's not one that 20 was called like the Bradford Hill approach or 21 something.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Okay. And by --</p> <p>24 MS. BROWN: Let him finish.</p> <p>25 Were you finished, Doctor?</p>	<p>1 different than what you asked? Because I'm 2 just --</p> <p>3 BY MS. PARFITT:</p> <p>4 Q It is.</p> <p>5 This would be some original research 6 that you might be -- got a funding or a grant or 7 something.</p> <p>8 A I see. Nothing like that.</p> <p>9 Q Okay. Have you received any funds -- 10 any funding or any grants to study mesothelioma?</p> <p>11 A No.</p> <p>12 Q Have you received any funding or grants 13 to study asbestos?</p> <p>14 A No.</p> <p>15 Q Have you received any funding or grants 16 to study talcum powder products and their 17 association with ovarian cancer?</p> <p>18 MS. BROWN: Objection to the form.</p> <p>19 THE WITNESS: No.</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Have you ever published in peer-reviewed 22 literature a causation analysis or a review 23 article asking whether an exposure causes a 24 disease?</p> <p>25 MS. BROWN: Objection to the form of the</p>
<p style="text-align: center;">Page 147</p> <p>1 THE WITNESS: I'm okay. Thank you.</p> <p>2 MS. PARFITT: Thank you.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q Assume I did a search of the word 5 "Bradford Hill" in the 167 papers that you have 6 published in the peer-reviewed journal, would it 7 surprise you if those words did not appear?</p> <p>8 MS. BROWN: Objection to the form.</p> <p>9 THE WITNESS: It wouldn't surprise me, 10 but I -- I don't know that it's not there 11 somewhere. And I would search more broadly than 12 just those 167. I would look at the more recent 13 ones too. I mean I can't say that it's not there, 14 but there's not a paper about Bradford Hill.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. Have you been involved in any 17 original research on asbestos in general?</p> <p>18 MS. BROWN: Objection to the form.</p> <p>19 THE WITNESS: I have not.</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Have you -- have you conducted any 22 original research on ovarian cancer?</p> <p>23 MS. BROWN: Objection to the form, asked 24 and answered.</p> <p>25 THE WITNESS: I guess, I mean -- is it</p>	<p style="text-align: center;">Page 149</p> <p>1 question.</p> <p>2 THE WITNESS: I don't know. I would 3 have to look back over. I don't -- like I don't 4 know if I would use those words "causation 5 analysis," but we certainly write -- did you say 6 review article?</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Yes.</p> <p>9 A So I don't write many review articles. 10 They're really -- they're really low quality 11 academic products for the most part, and so I try 12 to focus more on original research.</p> <p>13 Q All right. Well, same question applied 14 to original research.</p> <p>15 MS. BROWN: Objection to the form.</p> <p>16 THE WITNESS: Well, it wouldn't be -- I 17 mean that wouldn't be an original research 18 article.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q Okay. Have you ever performed any 21 research on the environmental impacts of talcum 22 powder products and ovarian cancer?</p> <p>23 MS. BROWN: Objection to the form, 24 vague.</p> <p>25 THE WITNESS: No.</p>

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<p>1 BY MS. PARFITT:</p> <p>2 Q Environmental impacts of diseases is</p> <p>3 something -- is a topic that you are interesting</p> <p>4 in, correct?</p> <p>5 A I am.</p> <p>6 Q You've studied the impact of</p> <p>7 environmental effects on lung diseases, correct?</p> <p>8 A I have.</p> <p>9 Q In fact, that's something you continue</p> <p>10 to be interested in, correct?</p> <p>11 A I am.</p> <p>12 Q But you've not studied any environmental</p> <p>13 impacts on ovarian cancer, correct?</p> <p>14 A Correct.</p> <p>15 MS. BROWN: Asked and answered.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Would it be fair to say that prior to</p> <p>18 being retained by Johnson & Johnson sometime in</p> <p>19 2017, you had done no research on the issue of</p> <p>talcum powder products and ovarian cancer?</p> <p>21 MS. BROWN: Objection to the form,</p> <p>22 misstates his testimony.</p> <p>23 THE WITNESS: I think it's the same as</p> <p>24 before. Right. I mean you went through each --</p> <p>25 each item, and my answer was no.</p>	<p>1 Q And to give you some -- a reference,</p> <p>2 we'll spend a little time on that before we get</p> <p>3 into your report. All right? Fair?</p> <p>4 A Sounds good.</p> <p>5 Q Okay. What is Medical Science</p> <p>6 Affiliates?</p> <p>7 A I think they -- they call themselves an</p> <p>8 environmental consulting company.</p> <p>9 Q How long have you been involved with</p> <p>10 Medical Science Affiliates?</p> <p>11 MS. BROWN: Form.</p> <p>12 THE WITNESS: So involved, I guess we'll</p> <p>13 have to sort, but I -- I've known about them and</p> <p>14 done some work with them for about ten years.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. And I too want to sort, so let me</p> <p>17 ask you this: When were you first introduced to</p> <p>18 Medical Science Affiliates?</p> <p>19 A Well, I guess if it's ten years, it</p> <p>20 would have been about ten years ago.</p> <p>21 Q And what were -- how did it come about</p> <p>22 that you learned of a group called Medical Science</p> <p>23 Affiliates?</p> <p>24 A There was a woman who worked there</p> <p>25 then -- I don't remember what her name is, she's</p>
<p>1 BY MS. PARFITT:</p> <p>2 Q So it was not until you were retained by</p> <p>3 Johnson & Johnson that you conducted any research</p> <p>4 on the topic of ovarian cancer and talcum powder</p> <p>5 products, correct?</p> <p>6 MS. BROWN: Objection to the form,</p> <p>7 misstates his testimony.</p> <p>8 THE WITNESS: That is right.</p> <p>9 MS. PARFITT: Okay. And is now a good</p> <p>10 time for a bio break or is it --</p> <p>11 MS. PARFITT: Sure.</p> <p>12 THE WITNESS: If you're in the middle of</p> <p>13 something, I --</p> <p>14 MS. PARFITT: No, no, this is fine.</p> <p>15 We'll just move into another area quickly, yeah.</p> <p>16 THE VIDEOGRAPHER: The time is</p> <p>17 11:14 a.m., and we're going off the record.</p> <p>18 (Recess.)</p> <p>19 THE VIDEOGRAPHER: The time is</p> <p>20 11:24 a.m., and we are back on the record.</p> <p>21 BY MS. PARFITT:</p> <p>22 Q All right. Dr. Diette, I want to talk</p> <p>23 for a moment about Medical Science Affiliates.</p> <p>24 All right?</p> <p>25 A Okay.</p>	<p>1 not there anymore -- and she knew a colleague of</p> <p>2 mine, and they were I think at the time looking</p> <p>3 for somebody to take on an epidemiology project, a</p> <p>4 review. And so he -- he sent around like a note</p> <p>5 or talked to us, I don't remember how he did it,</p> <p>6 but to see if anybody was interested in -- in</p> <p>7 doing an epidemiology project.</p> <p>8 Q Who was that colleague?</p> <p>9 A I think it was Hank Fessler, but I could</p> <p>10 be wrong. That's a while ago.</p> <p>11 Q And what is his position within the</p> <p>12 university?</p> <p>13 A He works in pulmonary.</p> <p>14 Q Okay. So you were -- you were then</p> <p>15 engaged by Medical Science Affiliates to do an</p> <p>16 epidemiological report for them?</p> <p>17 MS. BROWN: Objection. Misstates</p> <p>18 testimony.</p> <p>19 THE WITNESS: I don't know about</p> <p>20 engaged. I mean my -- my relationship is as an</p> <p>21 independent contractor. So it's like -- it's not</p> <p>22 like I have an agreement to do anything with them</p> <p>23 or for them. But that's -- that's the place</p> <p>24 where, you know, they organize the materials for</p> <p>25 me to look over and to -- and to do the</p>

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<p>1 epidemiological review.</p> <p>2 BY MS. PARFITT:</p> <p>3 Q Okay. Your counsel has objected, as you</p> <p>4 heard, to me obtaining a copy of your agreement,</p> <p>5 so I'm going to have to ask you a few more</p> <p>6 questions about this.</p> <p>7 What is your arrangement with Medical</p> <p>8 Science Affiliates? Independent contractor?</p> <p>9 A That's exactly right.</p> <p>10 MS. BROWN: He just said it.</p> <p>11 MS. PARFITT: Okay. I understand. You</p> <p>12 can take your own deposition, Counsel. It's going</p> <p>13 to show up on the record too, you're rubbing your</p> <p>14 head.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Medical Science, you have an independent</p> <p>17 contract relationship, to do what?</p> <p>18 A I think what it establishes is that I</p> <p>19 can use their administrative services as kind of</p> <p>20 like an outside office for me to do work.</p> <p>21 Q Okay. So that's one role, they're an</p> <p>22 outside office. You mentioned, though, that they</p> <p>23 contracted you to also write an epidemiology</p> <p>24 report. Correct?</p> <p>25 A It's --</p>	<p>1 Q More 50?</p> <p>2 A At least 50.</p> <p>3 Q Okay. And what has been the topic of</p> <p>4 those reports that you have prepared for Medical</p> <p>5 Science Affiliates' clients?</p> <p>6 MS. BROWN: And I'm going to jump in</p> <p>7 here. To the extent that those projects are</p> <p>8 governed by confidentiality agreements, I would</p> <p>9 ask Dr. Diette that you only disclose that which</p> <p>10 has been disclosed publicly, for example, in court</p> <p>11 or at a deposition.</p> <p>12 MS. PARFITT: Please stop coaching the</p> <p>13 witness.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q Can you answer?</p> <p>16 MS. BROWN: We're trying to protect</p> <p>17 confidentiality.</p> <p>18 MS. PARFITT: I get --</p> <p>19 MS. BROWN: I'm instructing him on</p> <p>20 privilege.</p> <p>21 MS. PARFITT: That's fine. I</p> <p>22 understood. He can talk now.</p> <p>23 THE WITNESS: So I would say that most</p> <p>24 of the work is in the context of what Ms. Brown</p> <p>25 said, which is that it wasn't for me to share with</p>
<p style="text-align: center;">Page 155</p> <p>1 MS. BROWN: Objection to the form.</p> <p>2 THE WITNESS: It's incorrect.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q Okay. Straighten it out for me.</p> <p>5 A Well, they didn't contract me to do</p> <p>6 anything. They asked if I was interested in doing</p> <p>7 this epidemiologic project for a client that they</p> <p>8 knew of.</p> <p>9 Q Okay. That helps me.</p> <p>10 So Medical Science Affiliates reached</p> <p>11 out -- requested that you do an epidemiological</p> <p>12 report for one of their clients.</p> <p>13 A Exactly right.</p> <p>14 Q Okay. Over the course of ten years that</p> <p>15 you've been affiliated as an independent</p> <p>16 contractor with Medical Science Affiliates, how</p> <p>17 many times have you prepared a report for one of</p> <p>18 Medical Science Affiliates' clients?</p> <p>19 A I don't know.</p> <p>20 Q More than ten?</p> <p>21 A Sure.</p> <p>22 Q More than a hundred?</p> <p>23 A A hundred would be pushing it. So</p> <p>24 something in the tens, I would say. But not ten.</p> <p>25 I mean something higher up in --</p>	<p style="text-align: center;">Page 157</p> <p>1 other people.</p> <p>2 BY MS. PARFITT:</p> <p>3 Q All right. Is J&J a client of Medical</p> <p>4 Science Affiliates?</p> <p>5 A I don't know what their relationship is,</p> <p>6 like I don't know if you would call them a client</p> <p>7 or not.</p> <p>8 Q Okay. Does Medical Science Affiliates</p> <p>9 do some work for Johnson & Johnson?</p> <p>10 MS. BROWN: Objection. Speculation.</p> <p>11 THE WITNESS: So I can tell you about</p> <p>12 what they do for me with regard to Johnson &</p> <p>13 Johnson. I don't know about anything else.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q All right. Tell me what you know.</p> <p>16 A Well, like, for example, like in the</p> <p>17 cases that we've discussed that involve Johnson &</p> <p>18 Johnson, they've provided a service by collecting</p> <p>19 the materials, right. So, for example, like when</p> <p>20 you see that list of materials that -- that I</p> <p>21 provided that I reviewed, they will collect those</p> <p>22 and -- and organize them for me.</p> <p>23 If there's a need to have a meeting or a</p> <p>24 phone call, they'll help to set that up, right, so</p> <p>25 that -- so, for example, for the deposition today,</p>

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<p>1 they were able to help sort my -- through my 2 schedule, you know, with me, and figure out a day 3 or days, I don't remember what we offered, things 4 of that sort. They'll prepare invoices on my 5 behalf. They'll help edit a report. You know, 6 administrative type things.</p> <p>7 Q Okay. Let's break that down a little 8 bit.</p> <p>9 Is it your understanding that Medical 10 Science Affiliates bills Johnson & Johnson --</p> <p>11 MS. BROWN: Object --</p> <p>12 BY MS. PARFITT:</p> <p>13 Q -- and invoices them for work?</p> <p>14 MS. BROWN: Objection to the form, calls 15 for speculation.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q If you know.</p> <p>18 A I don't know where the bill goes because 19 I don't know if it goes to the law firm. Like if 20 it matters to you whether it's directly to Johnson 21 & Johnson or -- I mean I can only guess that, you 22 know, the law firm is not going to pay the bill 23 out of their own pocket. They're probably going 24 to then invoice Johnson & Johnson, but I don't 25 know whether the bill goes directly to Johnson &</p>	<p>1 you said, which is that they billed somebody else 2 for the work that they did.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q Do you know who that somebody else is? 5 And I want to remind you you're under oath, 6 Dr. Diette.</p> <p>7 MS. BROWN: What --</p> <p>8 THE WITNESS: What's --</p> <p>9 MS. BROWN: Whoa, whoa, whoa. I'm 10 objecting to the implication there. Dr. Diette 11 has done nothing but testify truthfully today.</p> <p>12 MS. PARFITT: Counsel, objection, form. 13 I'm telling you.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q Please go on, Dr. Diette.</p> <p>16 MS. BROWN: No, but what you just said 17 is inappropriate --</p> <p>18 MS. PARFITT: It was not --</p> <p>19 MS. BROWN: -- and it violates both the 20 federal rules --</p> <p>21 MS. PARFITT: -- violative of anything, 22 Counsel.</p> <p>23 MS. BROWN: -- as well as deposition 24 protocol. He of course is testifying under oath, 25 and if you're suggesting something otherwise,</p>
<p style="text-align: center;">Page 159</p> <p>1 Johnson or whether it goes to the law firm.</p> <p>2 Q All right.</p> <p>3 MS. BROWN: And, Doctor, counsel doesn't 4 want you to guess, so just answer the question the 5 best --</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Dr. Diette, if they -- Medical Science 8 Affiliates collects material for you -- as you say 9 they did, correct?</p> <p>10 A That's correct.</p> <p>11 Q -- do they bill you or do they bill 12 someone else?</p> <p>13 MS. BROWN: Objection to the form.</p> <p>14 THE WITNESS: They bill someone else.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. So when you testified that J&J -- 17 excuse me, when you testified that you had 18 assistance with regard to the preparation of some 19 of the materials that accompany your report, that 20 was work that you contracted with Medical Service 21 Affiliates to do, and they didn't bill you, they 22 billed somebody else, correct?</p> <p>23 MS. BROWN: Objection to the form.</p> <p>24 THE WITNESS: I don't know if 25 "contracted" is right, but -- but they did what</p>	<p style="text-align: center;">Page 161</p> <p>1 that's wildly inappropriate.</p> <p>2 MS. PARFITT: Counsel, let the Court 3 decide if it's -- I think the Court might decide 4 that your objections and your manner today are 5 wildly inappropriate.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q So, Dr. Diette, so we can move forward, 8 do you remember the question?</p> <p>9 A I remember it, but I think I already 10 answered it. It's -- I don't have a better answer 11 than what I gave you before.</p> <p>12 Q You don't know who Medical Science 13 billed for the services they rendered to you?</p> <p>14 A Well, let's look at the invoice if we 15 want to. If it's on the top of that, then I 16 might --</p> <p>17 Q It's been blacked out, Dr. Diette.</p> <p>18 A So it's either a law firm or it's 19 Johnson & Johnson. I don't know whether it's one 20 or the other.</p> <p>21 MS. BROWN: Counsel, you're 22 misrepresenting the documents. It's very clear 23 who they sent the bill to on the face of the 24 invoice, and it has not been redacted for 25 work-product privilege.</p>

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<p>1 BY MS. PARFITT:</p> <p>2 Q What I want to understand, for purpose 3 of the expert report you prepared in this 4 litigation, I want you to tell me, if you will, 5 every service that Medical Science Affiliates 6 performed for you.</p> <p>7 A I don't think I can give you a full 8 list. I think that the -- go ahead.</p> <p>9 Q No, no, please, go ahead.</p> <p>10 A All right. So I think the category of 11 things that I told you about before are the kinds 12 of things that they -- that they did in this case. 13 I don't know if I mentioned like arranging like a 14 phone call. Like if I was going to have a phone 15 call, they would arrange that. Help with -- I 16 already talked about editing -- editing reports 17 and -- I can't think of another service they did, 18 but that's what I can think of right now.</p> <p>19 Q Okay. Did Medical Science Affiliates 20 research the scientific literature for you in 21 preparation for some of the information contained 22 in your expert report?</p> <p>23 A I don't -- I don't think they did any of 24 that. I mean, they've -- they've done searches in 25 the past on other -- other topics, but I don't</p>	<p>1 something else with the papers?</p> <p>2 Q I'll break it down. Did they do a 3 literature search for you?</p> <p>4 A Yeah, and that's what I don't remember. 5 So I'm just saying that they've done that at my 6 request in the past. But not -- not too much. I 7 mean it's actually not that helpful, because I -- 8 I find it easier to do it myself.</p> <p>9 Q Whether it was helpful or not, my 10 question is, did Medical Science Affiliates do any 11 literature research for you in -- on the topic of 12 talcum powder products and ovarian cancer?</p> <p>13 A I can't give you a better answer. I 14 mean I -- I think it sounds to me like you keep 15 asking the same thing, and it -- my answer is I'm 16 not -- I'm not sure. Like they may have gathered 17 a couple of papers, I don't remember if they did 18 or not. They certainly didn't do the search, like 19 I didn't commission anybody to do like -- like the 20 search.</p> <p>21 Q Okay. And how would they deliver that 22 information to you? Do they e-mail it to you? Do 23 they send it to you? What happens?</p> <p>24 A It depends upon how I ask. So it can 25 come as a binder, like the binder you have in</p>
<p style="text-align: center;">Page 163</p> <p>1 think they did any for this.</p> <p>2 Q All right. So it's your testimony that 3 in the talcum powder/ovarian cancer case, they did 4 not do any research of the peer-reviewed 5 literature; is that correct?</p> <p>6 A Well, let me be clear, when you talk 7 about talcum powder and ovarian cancer -- because 8 I have to think back with each -- you know, each 9 case or whatever, but we're talking about this 10 particular matter as you're asking these questions 11 or --</p> <p>12 Q Well, that's a -- that's a great point. 13 You got involved in talcum powder and ovarian 14 cancer cases sometime in 2017. That's your 15 testimony.</p> <p>16 A It is.</p> <p>17 Q All right. So at that point in time 18 when you became engaged to work on talcum powder 19 products and ovarian cancer, what I'm interested 20 in knowing is whether or not, whether it was for 21 this report, another report, has Medical Science 22 Affiliates done any research work of the 23 literature on this topic?</p> <p>24 A And by "research work," does that -- do 25 you mean like finding papers or does it mean doing</p>	<p style="text-align: center;">Page 165</p> <p>1 front of you, it could like that, and be hard 2 copies. It could be through, you know, an 3 electronic mechanism, if there were something to 4 share that way.</p> <p>5 Q All right. Did Medical Science 6 Affiliates summarize any of those depositions that 7 you have listed in your report?</p> <p>8 A I don't -- do I have -- I don't think -- 9 do I have deposition summaries?</p> <p>10 Q No.</p> <p>11 A Oh, then no.</p> <p>12 Q You have depositions.</p> <p>13 A Then the answer is no.</p> <p>14 Q Okay. Now, what you've provided me are 15 reports and depositions of various experts either 16 for Johnson & Johnson or for the plaintiff that 17 you've indicated you've -- you've put them on your 18 reliance list.</p> <p>19 And what I'm questioning is whether or 20 not you've had any summaries done of those reports 21 by Medical Science Affiliates.</p> <p>22 A No.</p> <p>23 Q Okay. Have they done any summaries of 24 any type of information for you in the talcum 25 powder products and ovarian cancer?</p>

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<p>1 MS. BROWN: And, Counsel, here I'm going 2 to interject, and to the extent your question -- 3 MS. PARFITT: Objection. Form. 4 MS. BROWN: -- seeks to -- I'm 5 instructing on privilege, which I'm allowed to do 6 under the federal rules and under the -- 7 MS. PARFITT: If it's a privilege 8 issue -- 9 MS. BROWN: -- let me do that. 10 MS. PARFITT: -- it's certainly fine. 11 MS. BROWN: Thanks. So my instruction 12 here will be that, Doctor, you are not under the 13 work-product privilege to disclose any 14 correspondence you've had with MSA, unless it is 15 something on which you rely for your opinions 16 here, and then of course, counsel is entitled to 17 have that information. 18 BY MS. PARFITT: 19 Q With that understanding, how do you 20 answer the question? 21 A Can you say it again because I think I 22 lost it? 23 Q Sure. Let me just have it read back to 24 you here. 25 Has Medical Science Affiliates done any</p>	<p>1 Q Did you use for purposes of your expert 2 report any of the summaries that were -- that were 3 conducted by Medical Science Affiliates that you 4 just spoke about? 5 A See, this is where I -- I don't know if 6 you're trying to confuse me or what, but -- 7 Q No, I'm not. 8 A Okay. So I just want to be clear, 9 because there aren't any summaries for this, right. 11 Q Okay. 12 A So -- and that's why I keep trying to -- 13 I just -- because there's a different answer for 14 what -- what people have done in other matters and 15 what they've done in this matter. There aren't 16 any summaries that I'm aware of to -- to look at. 17 Q All right. Did Medical Science 18 Affiliates help you write your expert report? 19 MS. BROWN: Objection to the form of the 20 question. 21 THE WITNESS: You know, "write" is a -- 22 is a word that can mean a lot of things. They 23 helped me to -- to shape it, like to create the -- 24 the format for it and like edit out typos and things of that sort.</p>
<p style="text-align: center;">Page 167</p> <p>1 summaries of any type of information for you -- or 2 provided any information for you on the talcum 3 powder products and ovarian cancer cases? 4 MS. BROWN: Same instruction. If you're 5 relying on anything they've done, of course, 6 please answer the question. 7 THE WITNESS: So if we're talking about 8 cases -- because that's why I clarified before, 9 we're not talking about this matter. We're 10 talking about ever in any -- in any case? 11 BY MS. PARFITT: 12 Q Ovarian cancer and talcum powder 13 products. 14 A Oh, yeah. No, I understand the words. 15 I'm just trying to make sure whether we're talking 16 about like this -- this matter that we're talking 17 about only or -- or beyond that. 18 Q Has -- has -- beyond that. 19 A So I'm going to say probably they have. 20 That if there are cases where there were like 21 medical records, for example, although I don't 22 think I've gotten any medical records, but they 23 would have provided a summary. If there were 24 deposition transcripts in those other cases, they 25 might well have -- have done that.</p>	<p style="text-align: center;">Page 169</p> <p>1 BY MS. PARFITT: 2 Q Okay. Well, that has -- it means a lot 3 of things as well. So let me ask you -- 4 MS. BROWN: Counsel, just ask the 5 question. 6 MS. PARFITT: Counsel, I'm -- please. 7 MS. BROWN: You can't editorialize like 8 that. It's a question and an answer. 9 BY MS. PARFITT: 10 Q Dr. Diette, what I would like to ask you 11 is, when you say they helped shape your report, 12 what do you mean they helped shape your report? 13 MS. BROWN: Objection. 14 THE WITNESS: What I just said -- I mean 15 what I said after -- after that before. 16 BY MS. PARFITT: 17 Q Is every word in your expert report that 18 you have there in front of you a word that you put 19 in it? 20 MS. BROWN: Objection to the form. 21 THE WITNESS: Well, I don't know. I 22 mean, there's -- there's quotes from people, 23 right, so that those aren't my words, for example. 24 BY MS. PARFITT: 25 Q Well, you know, I'm glad you brought</p>

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<p>1 that up. That's a good question.</p> <p>2 A Yeah.</p> <p>3 Q Are the opinions and the writings</p> <p>4 contained in that report words that you selected?</p> <p>5 A Oh, for sure. I mean like the opinions</p> <p>6 and my -- my summaries of things and -- is that</p> <p>7 what we're talking about?</p> <p>8 Q No. No.</p> <p>9 A We're not? All right.</p> <p>10 Q The report is about -- let's see how</p> <p>11 many pages -- it's about 51 pages long, and the</p> <p>12 question I have, with the exception of quotes from</p> <p>13 other people, Dr. Diette, is every word in this</p> <p>14 report a word you chose to put in the report?</p> <p>15 MS. BROWN: Objection to the form.</p> <p>16 THE WITNESS: For sure, yes. Although</p> <p>17 like some of the words, for example, I think might</p> <p>18 come from one of those affidavits that we were</p> <p>19 talking about, right. So it may be like, you</p> <p>20 know, words that I created in a different context</p> <p>21 and then pulled into this.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Okay. Well, then when you say "Medical</p> <p>24 Science Affiliates helped shape," I'm trying to</p> <p>25 get an understanding, what do you mean "shape"?</p>	<p>1 footnotes, like the information that comes from it</p> <p>2 was information that I pulled from the --</p> <p>3 Q Not my question. Who prepared the</p> <p>4 actual footnotes that appear at the bottom of your</p> <p>5 expert report of 58 -- or, excuse me, 51 pages?</p> <p>6 A So like actually put like -- like 110</p> <p>7 and then put like "Siemiatycki dep, 149"?</p> <p>8 Q Or how about put "226, Singh depo, don't</p> <p>9 consistently reduce," and there's a summary, I</p> <p>10 mean who provided that information, what staff?</p> <p>11 MS. BROWN: Objection to the form.</p> <p>12 Misstates his testimony about how the report was</p> <p>13 prepared.</p> <p>14 THE WITNESS: I'm sorry. We're looking</p> <p>15 at number 226.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q By way of example, Dr. Diette.</p> <p>18 A No, no, I'm just -- I'm just trying to</p> <p>19 help because an example helps.</p> <p>20 So I don't know. I mean some -- some</p> <p>21 staff person put that particular -- literally that</p> <p>22 segment in, but like it came from me identifying</p> <p>23 that NSAIDS don't consistently reduce the risk of</p> <p>24 ovarian cancer and wanting to link it there to my</p> <p>25 statement.</p>
<p style="text-align: center;">Page 171</p> <p>1 A It would look like a disaster if I did</p> <p>2 this myself. So the fact that there are headings,</p> <p>3 that, you know, things don't spill over from one</p> <p>4 page to another. I don't remember if there's a</p> <p>5 table in here, but to not have the table split</p> <p>6 across, to have, you know, references look okay.</p> <p>7 That I'm not good at. So the fact that this, in</p> <p>8 my view, looks like a professional product, that's</p> <p>9 what they -- that's what they've done for me is to</p> <p>10 make it look like that.</p> <p>11 Q Okay. There are multiple footnotes in</p> <p>12 your report to testimony of various experts that</p> <p>13 were retained by the plaintiff.</p> <p>14 A Yeah.</p> <p>15 Q Who prepared those footnotes?</p> <p>16 MS. BROWN: Objection to the form.</p> <p>17 THE WITNESS: Staff somewhere, but --</p> <p>18 BY MS. PARFITT:</p> <p>19 Q I'm sorry.</p> <p>20 A Staff.</p> <p>21 Q Staff?</p> <p>22 A Yes.</p> <p>23 Q What staff?</p> <p>24 A I don't know which staff did it, but I</p> <p>25 mean like the -- if you say who prepared the</p>	<p style="text-align: center;">Page 173</p> <p>1 Q Who's the staff? Staff for MSA?</p> <p>2 A It could be MSA; it could be the law</p> <p>3 firm. I'm not sure which.</p> <p>4 Q Did you dictate to MSA or anyone else</p> <p>5 portions of your expert report, and someone else</p> <p>6 then did the recordation?</p> <p>7 A Somebody else did the --</p> <p>8 Q Did the -- did --</p> <p>9 A The --</p> <p>10 Q Did you dictate any portions of your</p> <p>11 report to anyone?</p> <p>12 A I don't -- I don't do that.</p> <p>13 Q You don't dictate. Okay.</p> <p>14 A No.</p> <p>15 Q Did you spend time on the phone with</p> <p>16 anyone at MSA and discuss what your -- your report</p> <p>17 should look like?</p> <p>18 MS. BROWN: And again, I'm going to</p> <p>19 instruct on work product, that you not reveal the</p> <p>20 substance of any discussions you had regarding</p> <p>21 drafts of this report. Whether or not there was a</p> <p>22 conversation is an appropriate question to answer.</p> <p>23 THE WITNESS: Sure.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q You did?</p>

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<p>1 A Yes.</p> <p>2 Q So you had a conversation --</p> <p>3 A Yes.</p> <p>4 Q -- about the substance of your report,</p> <p>5 correct?</p> <p>6 MS. BROWN: Objection to the form.</p> <p>7 THE WITNESS: Oh, no, you just -- you</p> <p>8 said something else before that. What was the</p> <p>9 question before?</p> <p>10 MS. BROWN: Discuss what your report</p> <p>11 should look like.</p> <p>12 THE WITNESS: Yeah, that's different.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Okay.</p> <p>15 A You changed it to "substance." But I</p> <p>16 mean what it should look like is what I'm talking</p> <p>17 about. It was -- it should look good, right? And</p> <p>18 so there should be like, you know, bold headings</p> <p>19 and there should be spaces where they belong.</p> <p>20 Q What's the name of the contact person</p> <p>21 you interfaced with at MSA?</p> <p>22 A My main one is Maddie Petta --</p> <p>23 Pettenati.</p> <p>24 Q Okay. And how long have you worked with</p> <p>25 Maddie Pettenati?</p>	<p>1 at MSA to help you get your report in order?</p> <p>2 MS. BROWN: Objection to the form,</p> <p>3 misstates the testimony.</p> <p>4 THE WITNESS: I don't recall the amount</p> <p>5 of time. I mean whatever it took. Like some of</p> <p>6 it might be like a two-minute conversation to say</p> <p>7 like, you know, I want to move a section down or</p> <p>8 something. Or, you know, Can you proofread that</p> <p>9 particular paragraph and look for typos? And</p> <p>10 things of that sort.</p> <p>11 BY MS. PARFITT:</p> <p>12 Q Did any of the folks at MSA make any</p> <p>13 suggestions with regard to the scientific or</p> <p>14 medical content of your report?</p> <p>15 MS. BROWN: Objection. Instruct not to</p> <p>16 answer on work product. You can discuss -- you</p> <p>17 can answer the question of whether you had any</p> <p>18 conversations, the substance of which is</p> <p>19 privileged, and I'll instruct you not to answer.</p> <p>20 MS. PARFITT: MSA is a third-party</p> <p>21 contractor from what I'm understanding.</p> <p>22 MS. BROWN: No different than if he was</p> <p>23 working with a secretary to format this.</p> <p>24 Conversations about drafts of the report are</p> <p>25 privileged and will not be discussed.</p>
<p style="text-align: center;">Page 175</p> <p>1 A A couple of years.</p> <p>2 Q Okay. Do you work with anyone else over</p> <p>3 at MSA to help you with your reports?</p> <p>4 A Oh, sure.</p> <p>5 MS. BROWN: Objection to the form.</p> <p>6 THE WITNESS: Yeah.</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Who?</p> <p>9 A There's a woman named April, Shannon.</p> <p>10 I'm sure there's others too.</p> <p>11 Q What are their backgrounds?</p> <p>12 MS. BROWN: Objection to the form.</p> <p>13 THE WITNESS: Everybody has a -- a</p> <p>14 science background of some sort, like biology</p> <p>15 degrees, things of that sort.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Okay. How much time did you spend with</p> <p>18 the folks at -- the team at MSA for purposes of</p> <p>19 getting your report put together?</p> <p>20 A I don't know. I mean, what do you mean</p> <p>21 by "with"?</p> <p>22 Q Well, we know you've had conversations.</p> <p>23 We know that you have received information with</p> <p>24 regard to shaping your report, and what I want to</p> <p>25 know is, how much time did you spend with the team</p>	<p style="text-align: center;">Page 177</p> <p>1 BY MS. PARFITT:</p> <p>2 Q Doctor, if you can answer the question.</p> <p>3 A Can you say it again? I'm sorry.</p> <p>4 Q Sure. No worries. I'm just getting it</p> <p>5 here.</p> <p>6 Did any of the folks at MSA make any</p> <p>7 suggestions with regard to the scientific or</p> <p>8 medical content of your report?</p> <p>9 MS. BROWN: I'm instructing you not to</p> <p>10 answer that question under the work-product</p> <p>11 privilege.</p> <p>12 BY MS. PARFITT:</p> <p>13 Q Do you keep time records of the time you</p> <p>14 spend with MSA?</p> <p>15 A No.</p> <p>16 Q Okay. Well, I believe you testified at</p> <p>17 the beginning of your deposition that your charge</p> <p>18 per hour is \$485, correct?</p> <p>19 A Well, I was trying -- I was trying to</p> <p>20 make you understand that differently, and you said</p> <p>21 we would talk about it, so maybe we can. My</p> <p>22 charge is \$400 an hour.</p> <p>23 Q All right. Where does the 485 come</p> <p>24 from?</p> <p>25 A It's what I said before, right. They</p>

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<p>1 add \$85 when they bill somebody for my time. 2 Q Who "they"? 3 A MSA. 4 Q "They," MSA? 5 A Yeah. 6 Q All right. So that I get it straight, 7 you charge 400 -- \$400 for your time, correct? 8 A Correct. 9 Q And then your understanding is MSA 10 charges an additional \$85 to someone for their 11 assistance for you, correct? 12 MS. BROWN: Objection to the form, calls 13 for speculation. 14 THE WITNESS: So it's -- I don't know -- 15 I don't know how they break it down, because they 16 bill for different things, like they bill for 17 photocopying, they bill for some administrative 18 tasks separately. Whatever it is, it's their 19 business model, and they -- they add that amount 20 to the hourly rate. 21 BY MS. PARFITT: 22 Q How much did Medical Science bill for 23 their work, do you know? 24 MS. BROWN: Objection. Calls for 25 speculation.</p>	<p>1 and basically an amount. I don't have -- 2 A Like it -- 3 Q -- it's been blacked out. 4 A It doesn't matter. I can still -- 5 MS. BROWN: It's been redacted for work 6 product. 7 THE WITNESS: I mean I can help you 8 understand it if you want. 9 BY MS. PARFITT: 10 Q All I really want to understand and get 11 a better understanding, Dr. Diette, is the types 12 of services that MSA provided you in order to 13 file this -- prepare this report. 14 A Yeah, I -- I listed those. 15 Q Okay. Do they help you with all of your 16 expert reports? 17 A In what? 18 Q Does MSA provide any type of service in 19 any and all expert reports that you prepare in the 20 context of litigation? 21 A No. 22 Q Okay. Do you have another go-to service 23 to help you with the preparation of your expert 24 services? 25 MS. BROWN: Objection to form.</p>
<p style="text-align: center;">Page 179</p> <p>1 THE WITNESS: You can tell if we look at 2 the -- the invoices. 3 BY MS. PARFITT: 4 Q Okay. They would bill the same number 5 of -- well, let me ask for a clarification. Not 6 all your work was done in conjunction with the 7 assistance of Medical Science Affiliates, correct? 8 MS. BROWN: Objection to the form. 9 THE WITNESS: I mostly sat by myself. 10 Yeah. 11 BY MS. PARFITT: 12 Q Okay. So the invoices that I have for 13 you would not necessarily reflect all of the work 14 that Medical Science Affiliates afforded you, 15 correct? 16 A That's incorrect. 17 MS. BROWN: Objection to the form. 18 BY MS. PARFITT: 19 Q Okay. 20 A I mean that's what I was trying to offer 21 you earlier is to try to understand the -- the 22 bills. Because also when you add that comment 23 about the amount of money in total, it wasn't all 24 money that goes to me. 25 Q Yeah. The bills that I have have a date</p>	<p style="text-align: center;">Page 181</p> <p>1 THE WITNESS: No. I do stuff on my own 2 as well. 3 BY MS. PARFITT: 4 Q All right. So there are cases where 5 you've done the work by yourself, and there are 6 cases like this particular case where you engage 7 the services of MSA, correct? 8 A That is -- 9 MS. BROWN: Objection to the form. 10 THE WITNESS: -- correct. 11 BY MS. PARFITT: 12 Q Okay. And did MSA edit any of your -- 13 any of your -- did MSA edit your expert report? 14 A Yeah. 15 Q Okay. What kind of edits did they make? 16 A Well, all sorts. Like I asked them to 17 look for typos, for example. 18 Q Right. 19 A I just happen to be open to page 30 and 20 31, and where you see that the -- there's like 21 bulleted sections, when I wrote that, it was just 22 one long impenetrable paragraph, and so they were 23 nice enough to sort of break it into some chunks 24 so it would be easier to read. 25 Q Okay. Bear with me if I asked this</p>

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<p>1 before, but did MSA ever suggest any new sentences 2 or study that you didn't previously insert in your 3 paper?</p> <p>4 A I doubt a new study. It could be -- I 5 mean we worked -- we worked pretty hard to make 6 sure that I have the full list of studies, you 7 know, acknowledged, and so if there was something 8 I left off -- I mean I don't remember this 9 specifically for this, but that would be a normal 10 practice, right, like which is to say, you know, 11 Oh, I saw in your list of papers that there's a 12 Smith paper, should that be on here? Not them 13 going out and saying, Oh, I found a Smith paper, 14 would you like that on there?</p> <p>15 Q But they might look at yours and say, 16 You -- you missed a study. Fair?</p> <p>17 A Oh, sure.</p> <p>18 MS. BROWN: Objection to the form.</p> <p>19 THE WITNESS: Yeah.</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Okay. And they might look at your 22 report and say, You missed --</p> <p>23 I think what I'm getting at, Dr. Diette, 24 you described their efforts as generally 25 editorial. Is that fair?</p>	<p>1 Q And I'm not concerned about the format. 2 What I'm concerned about is the substance, 3 Dr. Diette, as you can appreciate.</p> <p>4 MS. BROWN: Objection.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q And so what I'm trying to -- to get some 7 clarity here is that, other than perhaps providing 8 you a study that you may have omitted from your 9 report, is there anything else that falls more in 10 the substantive area that they provided and 11 offered for you?</p> <p>12 A I -- I think I've answered as best I 13 can.</p> <p>14 Q Well, why don't we -- let's talk about 15 your contact with J&J. When did they first reach 16 out to you to talk with you about being an expert 17 to defend them in these lawsuits?</p> <p>18 MS. BROWN: Objection to the form of the 19 question.</p> <p>20 THE WITNESS: So they never asked me to 21 defend them. They -- they asked me to evaluate 22 the epidemiologic literature.</p> <p>23 And just to be clear, because it seemed 24 like it was tripping us up before trying to talk 25 about this, when I talk about J&J, it's lawyers</p>
<p style="text-align: center;">Page 183</p> <p>1 MS. BROWN: Objection to the form.</p> <p>2 THE WITNESS: I would say administrative 3 and editorial.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q Okay. So we can agree that it's both 6 administrative and editorial?</p> <p>7 MS. BROWN: Objection to the form.</p> <p>8 THE WITNESS: Correct.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q And as I appreciate, in addition to 11 perhaps providing you with a study or two that -- 12 or three, however number, that you might have 13 omitted, is there anything substantive like that 14 that they did for you for purposes of your expert 15 report?</p> <p>16 A I insist that they don't. I tell them 17 that I don't want any intellectual input into 18 the -- to the stuff that we're working on. Like I 19 don't want their -- I don't even know if they have 20 opinions, but I don't want their opinions. I 21 literally want this to look like a professional 22 product, and I want to get it done in a way that I 23 can still spend my time -- my other professional 24 time on other things. So if I were to try to make 25 this look like this, it would take me forever.</p>	<p style="text-align: center;">Page 185</p> <p>1 that are working with J&J as opposed to somebody 2 from J&J per se. And so I'll leave it to you guys 3 to sort out what that -- what that means.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q Fair enough.</p> <p>6 A But -- but the first time would have 7 been a lawyer back in 2017 who asked if I would be 8 interested in reviewing the epidemiologic 9 literature.</p> <p>10 Q Who was that lawyer?</p> <p>11 A Jonathan Cooper.</p> <p>12 Q Okay. Now, at the time that Jonathan -- 13 or Jonathan Cooper contacted you, did you -- were 14 you working with MSA?</p> <p>15 A Obviously, because I said ten years, 16 and, you know, this was 2017.</p> <p>17 Q Okay. Did you share with Jonathan 18 Cooper that you worked with this MSA company to 19 help you prepare your expert reports?</p> <p>20 A He knew about it already, because I 21 think the reason he reached out to me is because 22 he was impressed with the work I had done in 23 other -- other cases.</p> <p>24 Q Okay. Well, when he -- when you say he 25 was impressed with you, with the work that you've</p>

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<p>1 done, when he -- let me explore that a little bit. 2 When he called you, did you tell him 3 that you had previously worked with MSA to help 4 you with your expert reports? 5 A I didn't have to. 6 Q He knew that. 7 A Yes. 8 Q Okay. How would Mr. Cooper have known 9 that you worked with MSA before? 10 MS. BROWN: Objection to the form, calls 11 for speculation. 12 MR. LOCKE: Objection. 13 BY MS. PARFITT: 14 Q If you know. Seems like you know. 15 A Oh, I do. We had -- he and I had worked 16 together on other cases. 17 Q Okay. What other cases did you work 18 with Mr. Cooper on? 19 A They were asbestos-related cases with 20 plastic or phenolics, like electrical equipment. 21 Q Okay. And in those cases that you 22 worked with Jonathan on -- or Mr. Cooper on, did 23 you utilize the services of MSA as well to help 24 you prepare your expert report in those cases? 25 A I did.</p>	<p>1 Q Okay. Have they ever listed you on some 2 type of website as a consultant for legal 3 purposes? 4 A Well, I see -- 5 MS. BROWN: Objection to the form, 6 calls for speculation. 7 THE WITNESS: -- Mr. Finch is here and 8 he -- 9 THE REPORTER: Excuse me. 10 THE WITNESS: Oh, sorry. 11 MS. BROWN: Objection to the form, call 12 for speculation. Thank you. 13 THE WITNESS: Mr. Finch flashed 14 something up at a trial to suggest that they had, 15 but that wasn't an advertisement for me. It was a 16 list of somebody who had credentials that were 17 similar to mine. 18 BY MS. PARFITT: 19 Q Okay. Well, my question is, have -- are 20 you aware of whether or not Medical Science 21 Affiliates has ever advertised your name out in 22 the -- the community as someone -- 23 MS. BROWN: Same objection -- 24 BY MS. PARFITT: 25 Q -- who was a specialist in pulmonology</p>
<p style="text-align: center;">Page 187</p> <p>1 Q Okay. Has MSA reached out to you and 2 engaged or asked if you would engage in assisting 3 them on any other projects currently? 4 A What do you mean by "currently"?</p> <p>5 Q Well, are you working with MSA on any 6 other projects other than the talcum powder 7 products and ovarian cancer?</p> <p>8 A Yes. 9 Q What projects?</p> <p>10 MS. BROWN: And again, Doctor, to the 11 extent that a confidentiality agreement doesn't 12 prevent you from disclosing other work that you're 13 doing, you can answer the question.</p> <p>14 THE WITNESS: Some cases that relate to 15 asbestos and other chemical-related cases.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Okay. Was there a time when you, 18 instead of receiving services from MSA, you 19 provided services to MSA as an affiliate expert?</p> <p>20 MS. BROWN: Objection to the form of the 21 question.</p> <p>22 THE WITNESS: I know they have that word 23 "affiliate" in their name. I don't know what that 24 means. But I don't provide services to them.</p> <p>25 BY MS. PARFITT:</p>	<p style="text-align: center;">Page 189</p> <p>1 medicine? 2 MS. BROWN: Same objection. 3 THE WITNESS: I'm not aware that they 4 advertise.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Okay. So are there times that Medical 7 Science Affiliates reaches out to you and says, 8 Dr. Diette, we want you to do a medical -- a 9 scientific review for us on a topic?</p> <p>10 A Never. 11 Q Okay. They've never done that. You've 12 never provided that service for them. 13 A They -- they don't ask me to do work for 14 them. 15 Q Okay. Do their clients ask you to do 16 work for them? 17 A Of course, that's where we started, 18 right, from ten years ago. 19 Q Right. And that's what I'm trying to 20 figure out. 21 MS. BROWN: Let him finish. I don't 22 think he was done. 23 THE WITNESS: No, that was -- that was 24 the description of what I was saying, like how 25 the -- the first time that I met them was that</p>

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<p>1 they -- there was some, you know, group that 2 wanted an epidemiologic review, and they were 3 trying to figure out if there were local 4 epidemiologists that could take on a task like 5 that, and so that's the way it worked. 6 BY MS. PARFITT: 7 Q Okay. So I now get -- 8 MS. BROWN: He is not done. 9 BY MS. PARFITT: 10 Q Are you done, Doctor? I thought you 11 were. 12 A I'll be done. 13 Q Okay. So if I appreciate this 14 structure, so we can move on, a client, some 15 company can reach out to Medical Science 16 Affiliates and say, We need some work done and 17 research done on a particular area. Will you do 18 that for me? 19 Medical Science Affiliates will say, 20 Yes, we can. And then Medical Science Affiliates 21 reaches out to people like you? 22 MS. BROWN: Objection to the form. 23 THE WITNESS: So I don't know -- I don't 24 know when they say, Yes, we can. Like I don't 25 know, for example -- like their -- I don't know</p>	<p>1 Q So you never work for MSA; you always 2 work for a corporate client? 3 MR. LOCKE: Objection. 4 MS. BROWN: Objection to the form of the 5 question. 6 THE WITNESS: So I've never worked for 7 MSA. 8 BY MS. PARFITT: 9 Q Who pays your bills? Law firms? 10 MS. BROWN: Objection to the form. 11 THE WITNESS: So -- 12 MS. BROWN: What bills? What are you 13 talking about? 14 BY MS. PARFITT: 15 Q Who pays your bills for doing services 16 at the request of MSA? 17 MS. BROWN: Objection to the form. 18 BY MS. PARFITT: 19 Q Anybody? 20 MS. BROWN: Objection. Can we -- let's 21 have one question and let him answer. 22 Go ahead. 23 BY MS. PARFITT: 24 Q And I'll tell you the reason I'm asking, 25 Dr. Diette.</p>
<p style="text-align: center;">Page 191</p> <p>1 what their size is, but they may say, Yes, we can, 2 and just do it themselves. Right. They have 3 other people that I don't work with that work 4 there. 5 I'm just saying, like you're asking the 6 question, so it's like -- so if somebody calls 7 them and says, Can you do this work? They may 8 well say, Yes, we can do it. They may or may not 9 need a content expert or methodologic expert to do 10 it. So it -- I assume it depends, but I'm -- I'm 11 not familiar with their entire business operation. 12 BY MS. PARFITT: 13 Q Okay. All I'm trying to find out is -- 14 is who comes to who, and from what I understand 15 your testimony is, a client will reach out to MSA 16 and say, We have a project. MSA will determine 17 whether or not someone -- someone's expertise is 18 needed in order to complete that job, and then MSA 19 reaches out to you. Is that fair? 20 MR. LOCKE: Objection. 21 MS. BROWN: Objection. Speculation. 22 THE WITNESS: I like the answer I just 23 gave. I mean I think that really was my answer to 24 that exact question. 25 BY MS. PARFITT:</p>	<p style="text-align: center;">Page 193</p> <p>1 MS. BROWN: No, no, no, no. You ask the 2 question, he answers. We don't need to know why 3 you're asking the question. 4 MS. PARFITT: Excuse me. 5 MS. BROWN: It's improper. You're not 6 going to give a speech, Counsel. 7 BY MS. PARFITT: 8 Q Dr. Diette, we -- has there ever been a 9 chance or an opportunity where you have reached 10 out to MSA on your own, and say, A client that 11 doesn't work or do business with you, MSA, has 12 asked me to do a report. Can you help me? 13 A Yes. 14 Q Okay. So that's one scenario, correct? 15 A Correct. 16 Q It's some other client has -- some other 17 individual or entity has reached out to you and 18 said, Dr. Diette, I would like to engage your 19 expertise in the legal context. Fair? 20 MS. BROWN: Objection to the form. 21 THE WITNESS: Or the epidemiologic 22 context, but in some context. 23 BY MS. PARFITT: 24 Q Okay. And then you have in turn reached 25 out to MSA and said, I need some help.</p>

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<p>1 MS. BROWN: Objection to the form. 2 THE WITNESS: Something like that, yeah. 3 BY MS. PARFITT: 4 Q Okay. That's one scenario. 5 Another scenario is when a corporate 6 client, for instance, engages the services of MSA 7 to do a project and a particular expertise is 8 needed, and MSA then reaches out to folks like 9 yourself or folks in other medical specialties. 10 Fair? 11 MS. BROWN: Objection. Speculation. 12 THE WITNESS: So I'm not a lawyer, 13 right. So I'm trying to listen carefully to the 14 words that you're using, and when you say they 15 reach out and they retain MSA, I -- I actually 16 don't know if that's actually what happens, right. 17 So I gave you an example that -- 18 BY MS. PARFITT: 19 Q Okay. 20 A -- they might retain MSA for their own 21 purposes, and nobody else gets involved. If like, 22 for example, in this case when Jonathan Cooper 23 reached out, he wanted to work with me, and MSA 24 provided the support services for me to get that 25 work done. So I -- I have no idea whether he</p>	<p>1 conflicts checks? 2 MS. BROWN: Objection. Speculation. 3 Engaged by who? 4 BY MS. PARFITT: 5 Q When you're engaged by a client, who 6 does the conflict -- 7 MS. BROWN: Same -- 8 BY MS. PARFITT: 9 Q -- conflicts checks for you? 10 MS. BROWN: Same objection. 11 THE WITNESS: I don't know that anybody 12 does conflicts checks. I mean if there is 13 somebody, I'm not aware of who that is. If it 14 comes up, people will ask me sometimes if I have a 15 conflict of interest. Sometimes I'll see a 16 complaint, you know, and be asked to look at, you 17 know, the names on the complaint. 18 It all depends, but I -- I don't even 19 know if I know what a conflict checks is, I mean 20 if that's a technical term. It's only been -- 21 it's only been done the way I'm describing, which 22 somebody will say to me like, you know, Do you 23 have any conflict of interest? 24 BY MS. PARFITT: 25 Q Okay. You prepared two affidavits that</p>
<p style="text-align: center;">Page 195</p> <p>1 retained MSA per se. I mean that's -- that's 2 something for lawyers to kind of sort through. 3 Q Well, did Jonathan Cooper go to you 4 directly or did Jonathan Cooper go to MSA? 5 MS. BROWN: Objection to the form. 6 You can answer if you know. 7 THE WITNESS: It was kind of both. I 8 mean I think we -- we were talking about something 9 else one day, and he asked if I would be 10 interested in this. 11 BY MS. PARFITT: 12 Q Okay. And did Jonathan Cooper then 13 reach out to MSA as well? 14 MS. BROWN: Objection. Speculation. 15 BY MS. PARFITT: 16 Q You said both. That's why I'm asking. 17 A Yeah, yeah, I mean -- 18 MS. BROWN: Same objection. 19 THE WITNESS: I don't know how that part 20 worked, I mean, but -- but it was pretty clear 21 that it was such a big volume of work, that if I 22 was going to do it with him that I was going to 23 use MSA's services. 24 BY MS. PARFITT: 25 Q When you're engaged, who does the</p>	<p style="text-align: center;">Page 197</p> <p>1 I'm aware of, one in the Ingham case and one in 2 the Forrest. Do you recall doing that back in 3 2018? 4 A I do. 5 Q Okay. Are you aware of any other 6 affidavits you prepared in 2018 other than the 7 Ingham and the Forrest? 8 A I don't think so. But I mean if you 9 have one, I would be glad to help confirm it, but 10 I can't recall one off the top of my head. 11 Q Fair enough. How much did you charge 12 for preparation of the Ingham affidavit? 13 MS. BROWN: Objection to the form. 14 THE WITNESS: I don't remember. 15 BY MS. PARFITT: 16 Q More than 50,000? 17 MS. BROWN: Same objection. 18 THE WITNESS: So I guess it depends upon 19 when we're talking about like me, you know, 20 because earlier you were lumping together, you 21 know, services that MSA charges for and gets paid 22 for. So I don't remember what -- what part I got. 23 It wouldn't -- it wouldn't have taken \$50,000 24 worth of my time to prepare, you know, the 25 affidavit, I don't think. And in part, because,</p>

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<p>1 you know, the input for that was stuff I was 2 already, you know, reading and interpreting 3 otherwise.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q All right. How much did you charge for 6 the Forrest report?</p> <p>7 MS. BROWN: Objection to the form.</p> <p>8 THE WITNESS: The same -- same answer. 9 I don't know. And in fact, the Forrest report, if 10 it came second, probably not very much because I 11 think it's mostly derivative from the first. I 12 mean I try -- I'm not trying to just, you know, 13 create work to create it. Like if there's 14 something I -- that I like the way it reads, I try 15 to use it again.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Okay. Are you aware, having actually 18 prepared both of those affidavits, they are 19 virtually the same affidavit? Would that surprise 20 you?</p> <p>21 MS. BROWN: Objection to the form.</p> <p>22 THE WITNESS: I hope they are. I mean 23 that -- that was the intent.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Okay. Other than the ovarian cancer/</p>	<p>1 products and ovarian cancer. 2 And the question I have is, in any 3 context, when the topic of interest is talcum 4 powder products and ovarian cancer, have you ever 5 been asked by MSA to do any work that's 6 non-pulmonary, other than the ovarian cancer 7 cases?</p> <p>8 A Related --</p> <p>9 MR. LOCKE: Objection.</p> <p>10 THE WITNESS: Related to talcum powder?</p> <p>11 BY MS. PARFITT:</p> <p>12 Q Related to anything.</p> <p>13 A Well, wait a minute. No, because -- so, 14 first of all, you said has MSA asked me to do it. 15 Like they don't ask me to do stuff. Like they -- 16 it's -- the relationship we described before is 17 what it is. So if it's more general about are 18 there other cases --</p> <p>19 Q Yeah.</p> <p>20 A -- and when you say non-pulmonary, you 21 know, there are cases I've been involved in that 22 have nothing do with talcum powder that are 23 non-pulmonary.</p> <p>24 So I'm just trying to figure out, 25 there's a lot of different angles to what -- to</p>
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<p>1 talcum powder cases, have you been engaged by 2 anyone else for opinions on a non-pulmonary issue?</p> <p>3 MS. BROWN: Objection to the form.</p> <p>4 THE WITNESS: Related to?</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Your work with MSA.</p> <p>7 A No, but you said -- it sounded like 8 there's something missing from the question.</p> <p>9 Q Sure. Let me -- let me ask it again. 10 Okay.</p> <p>11 Other than this case involving ovarian 12 cancer and talcum powder products, have you been 13 asked and -- or requested by anyone for your 14 opinions on a topic that was something other than 15 non-pulmonary?</p> <p>16 MS. BROWN: Objection. Do you mean --</p> <p>17 MS. PARFITT: That was non-pulmonary.</p> <p>18 MS. BROWN: -- to exclude Ingham and the 19 other? When you say "this case," do you mean just 20 the MDL?</p> <p>21 MS. PARFITT: Yeah.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q And I think that's where we're getting 24 hung up. When I say "this case," I'm going to be 25 talking about "this case" being talcum powder</p>	<p>1 what you're asking.</p> <p>2 Q Sure.</p> <p>3 A Are you talking about talcum powder 4 cases that are related to something other than 5 ovarian cancer, and something other than a 6 pulmonary --</p> <p>7 Q I'll simplify it. Have you ever 8 prepared a report in a -- let me do it this way.</p> <p>9 Talcum powder products and ovarian 10 cancer have nothing to do with pulmonary medicine, 11 correct?</p> <p>12 MS. BROWN: Objection to the form. Are 13 we abandoning inhalation as a theory of --</p> <p>14 MS. PARFITT: No, we're not, no.</p> <p>15 MS. BROWN: Okay.</p> <p>16 THE WITNESS: Then no. I mean, no, 17 meaning that if that's a theory, then that 18 certainly has something to do with pulmonary 19 medicine.</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Okay. And I think what I'm really 22 driving at is, it looks as though your focus for 23 the last couple of years has been talcum powder 24 products and ovarian cancer or asbestos and 25 mesothelioma. Is that fair?</p>

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<p>1 MR. LOCKE: Objection. 2 THE WITNESS: My focus -- 3 BY MS. PARFITT: 4 Q Focus and research -- 5 MS. BROWN: Objection. 6 BY MS. PARFITT: 7 Q -- for preparation of expert legal 8 reports. 9 MS. BROWN: Objection to the form. 10 THE WITNESS: I -- I'm either not 11 hearing you well or I think things are getting 12 jumbled. 13 BY MS. PARFITT: 14 Q Okay. 15 A And I -- 16 Q Probably the -- the latter. 17 A No, and I apologize. 18 Q It's probably me. 19 A I'm not trying to give you a hard time. 20 I just mean that -- what I -- what I heard earlier 21 is am I working on something with talcum powder 22 other than ovarian cancer or other than ovarian 23 cancer and something that isn't part of the lung? 24 Is that it? 25 Q Are you preparing expert reports on a</p>	<p>1 anything -- 2 Q Do you want to take -- 3 A No, I'm just wondering. Not 4 necessarily, but if it's -- 5 MS. MILLER: This would be a good time 6 for lunch. 7 THE WITNESS: Yeah, that's what I'm 8 wondering, just if it's going to be -- 9 MS. BROWN: Yeah, it's up to you. If 10 you want to break, counsel will give you a break. 11 MS. PARFITT: Whatever you want to do. 12 Do you want to take a break now? 13 THE WITNESS: It would be nice to -- to 14 get a snack, and -- 15 MS. PARFITT: You want to take a half 16 hour and grab -- 17 THE WITNESS: Would that be okay? 18 MS. PARFITT: That's totally fine, yep. 19 THE VIDEOGRAPHER: The time is 12:08 20 p.m., and we are going off the record. 21 (Lunch recess.) 22 THE VIDEOGRAPHER: The time is 12:43 23 p.m., and we're back on the record. 24 BY MS. PARFITT: 25 Q Good afternoon, Dr. Diette.</p>
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<p>1 topic area other than talcum powder products and 2 ovarian cancer currently? 3 MS. BROWN: Objection. He's not 4 answering questions about reports that have not 5 been served in cases -- 6 MS. PARFITT: Understood. 7 MS. BROWN: -- where he's not a 8 disclosed expert. 9 THE WITNESS: You mean in my 10 professional life in general? 11 BY MS. PARFITT: 12 Q Correct. 13 A Yes. 14 Q Okay. What other areas? 15 A Well, that's what we talked about 16 before, right. So there was asbestos, there's 17 some chemicals, probably like mold and dampness. 18 There's malpractice cases. I mean a whole variety 19 of different things. 20 Q Okay. All right. I want to come to -- 21 where I want to go is your -- your actual report. 22 I want you to take me through -- I'll ask you some 23 questions about the process that you went through 24 in actually putting this report together. 25 A And I don't want to overbreak or</p>	<p>1 A Good afternoon. 2 Q All right, Dr. Diette, I'd like to focus 3 for a little bit about your -- actually your 4 expert report and hopefully get to your opinions 5 here soon. 6 It's fair to say that this report is -- 7 this expert report is not a report that you 8 prepared in the ordinary course of your activities 9 as a pulmonary medicine at Johns Hopkins? 10 MS. BROWN: Objection to the form. 11 THE WITNESS: That's correct. 12 BY MS. PARFITT: 13 Q Okay. And are all the opinions which 14 you will be sharing with us today, and eventually 15 the court and a jury, set forth in your -- your 16 expert report? 17 MS. BROWN: Form. 18 THE WITNESS: I hope so. I mean, 19 it's -- there may be like -- like smaller opinions 20 that are underpinnings that I didn't capture, but 21 I mean the fundamental opinions should be there. 22 And assuming nothing different comes out when 23 you're asking me about it today, I guess the only 24 other thing I'd say is that I don't think that 25 I've seen all of the -- the testimony yet in this</p>

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<p>1 case. So I don't know whether that's going to, 2 you know, spur some other thought, you know, from 3 the other -- other experts who are testifying, but 4 aside from that, then this should otherwise be 5 complete.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q And obviously if you see something, 8 testimony that causes you to change your opinions, 9 you will let me know, correct?</p> <p>10 MS. BROWN: Form.</p> <p>11 THE WITNESS: I will.</p> <p>12 BY MS. PARFITT:</p> <p>13 Q All right. Dr. Diette, on the front of 14 your report it says "Expert Report of Gregory 15 Diette, MD, MHS, For General Causation Daubert 16 Hearing." Did you write that?</p> <p>17 A Not this page, no.</p> <p>18 Q All right. Who wrote that?</p> <p>19 MS. BROWN: Objection to the form.</p> <p>20 THE WITNESS: I -- I don't know 21 literally. I think this came from the law firm as 22 a cover page for me to -- to sign.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q You've testified both in general 25 causation case -- as a general causation witness</p>	<p>1 to say that that is your signature on the -- on 2 the front page, Gregory Diette?</p> <p>3 A Yes, it is.</p> <p>4 Q And you completed that on February 25th, 5 2019, correct?</p> <p>6 A Exactly right.</p> <p>7 Q Okay. And it would also -- is it also 8 fair to say that the opinions contained in this 9 report are not the opinions of Johns Hopkins 10 University?</p> <p>11 A Not as far as I know. I mean they're 12 literally just mine.</p> <p>13 Q Have you shared these opinions with any 14 of the other members of the Johns Hopkins 15 community?</p> <p>16 A No.</p> <p>17 Q All right. Did you run the opinions 18 that you have by any of the staff or your 19 superiors at Johns Hopkins?</p> <p>20 MS. BROWN: Objection to the form.</p> <p>21 THE WITNESS: No.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Okay. Aside from this expert report and 24 the opinions retained herein, have you shared your 25 opinions with anyone else outside of the Johns</p>
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<p>1 and as well as a specific causation witness, 2 correct?</p> <p>3 A Generally speaking, like in legal cases?</p> <p>4 Q Correct.</p> <p>5 A Yes, I have.</p> <p>6 Q All right. So you understand the 7 difference.</p> <p>8 A I hope so, yeah.</p> <p>9 Q Okay. Have you actually testified in an 10 asbestos/meso- -- mesothelioma case on giving 11 specific causation opinions?</p> <p>12 A Yes.</p> <p>13 Q Okay. Have you also provided general 14 causation opinions in a meso/asbestos case?</p> <p>15 A Yes.</p> <p>16 Q Okay. Now, it says Daubert. Do you 17 understand what a Daubert hearing is?</p> <p>18 MS. BROWN: Objection to the form.</p> <p>19 THE WITNESS: Probably not the way that 20 you do. I have a general -- general sense of 21 this, but -- you know, I -- I wouldn't be able to 22 answer, you know, a lot of test questions about 23 it.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Okay. All right. And would it be fair</p>	<p>1 Hopkins community, regulatory or scientific 2 bodies?</p> <p>3 MS. BROWN: Objection to the form.</p> <p>4 THE WITNESS: No. You mean other than 5 the lawyers and --</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Correct, other than your lawyers.</p> <p>8 A Oh, yeah, yeah, yeah.</p> <p>9 MS. BROWN: Objection to the form.</p> <p>10 We're not his lawyers.</p> <p>11 THE WITNESS: Right, but I mean but 12 lawyers that are involved in this case, I have 13 expressed it to, but not those other kinds of 14 entities that you described.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. And to be clear, you have not 17 shared with the Johns Hopkins community your 18 opinions on talcum powder products and ovarian 19 cancer.</p> <p>20 MS. BROWN: Objection to the form.</p> <p>21 THE WITNESS: That is correct.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Okay. Let's go to I believe page 2 of 24 your report, if you will.</p> <p>25 And take a moment. Do you have that in</p>

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<p>1 front of you?</p> <p>2 A I do. Thank you.</p> <p>3 Q Okay. Is it fair to say that your</p> <p>4 report contains the bases for your opinions as</p> <p>5 well?</p> <p>6 A Yes.</p> <p>7 Q All right. And is it fair the -- do you</p> <p>8 know whether or not this report has answered all</p> <p>9 the questions that J&J asked you to answer for</p> <p>10 them?</p> <p>11 MS. BROWN: Objection. Lacks</p> <p>12 foundation.</p> <p>13 THE WITNESS: Well, I think there's only</p> <p>14 one question, right?</p> <p>15 BY MS. PARFITT:</p> <p>16 Q And what was that question?</p> <p>17 MS. BROWN: Wait. Let him finish.</p> <p>18 BY MS. PARFITT:</p> <p>19 Q What was that question?</p> <p>20 A I'm sorry. So the question was -- was</p> <p>21 really about whether or not the -- what does the</p> <p>22 epidemiologic evidence say about the relationship</p> <p>23 between talcum powder and ovarian cancer.</p> <p>24 Q All right. So let's turn to your</p> <p>25 report, page 2, and I believe --</p>	<p>1 Q Okay. And if you would turn -- be so</p> <p>2 kind to turn to the last page of the report,</p> <p>3 page 51.</p> <p>4 A Okay.</p> <p>5 Q And again, if you would read the first</p> <p>6 paragraph.</p> <p>7 A At the --</p> <p>8 Q And we'll go ahead and put that up on</p> <p>9 the ELMO.</p> <p>10 A Under "Conclusion" or the --</p> <p>11 Q Under the Conclusion, if you will.</p> <p>12 A Yep. The whole thing?</p> <p>13 Q Just that -- just that first</p> <p>14 paragraph -- or first sentence.</p> <p>15 A First sentence. Oh, okay. Yep.</p> <p>16 "It is my opinion, based on my</p> <p>17 qualifications and my extensive review of the</p> <p>18 available epidemiology studies and scientific</p> <p>19 literature, that there is not sufficient evidence</p> <p>20 to conclude that there is a causal relationship</p> <p>21 between perineal talcum powder exposure and</p> <p>22 ovarian cancer."</p> <p>23 Q Okay. And I know you have much to say</p> <p>24 about that, but that is basically the -- the</p> <p>25 general opinion that you're going to be sharing,</p>
<p style="text-align: center;">Page 211</p> <p>1 MS. PARFITT: And we'll put it up on the</p> <p>2 ELMO here.</p> <p>3 (Counsel conferring.)</p> <p>4 MS. PARFITT: I guess we won't put it up</p> <p>5 on the ELMO here.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Looking at the Summary of Opinions,</p> <p>8 would you please read, if you will, that first</p> <p>9 sentence.</p> <p>10 A Down at the bottom?</p> <p>11 Q Please.</p> <p>12 A "The body of"?</p> <p>13 Q Under "Summary of Opinions."</p> <p>14 A Yep, sure.</p> <p>15 "The body of relevant epidemiological</p> <p>16 evidence does not support a causal connection</p> <p>17 between perineal use of talcum powder products,"</p> <p>18 parentheses, "whatever constituents those products</p> <p>19 may contain in addition to talc," end parentheses,</p> <p>20 "and ovarian cancer."</p> <p>21 Q All right. And then in the next page is</p> <p>22 you talk about the bases for that, correct?</p> <p>23 A I think that's the right way to say the</p> <p>24 bases. I mean it's sort of an elaboration of that</p> <p>25 general -- general opinion.</p>	<p style="text-align: center;">Page 213</p> <p>1 correct?</p> <p>2 A I agree with you, yes.</p> <p>3 Q Okay. Let me show you what we'll have</p> <p>4 marked as 12, Exhibit 12.</p> <p>5 (Counsel conferring.)</p> <p>6 MS. PARFITT: Let me show you, Counsel,</p> <p>7 what we -- what we'll have marked as Exhibit 12.</p> <p>8 There you go.</p> <p>9 (Diette Exhibit No. 12 was marked</p> <p>10 for identification.)</p> <p>11 BY MS. PARFITT:</p> <p>12 Q Doctor, have you seen this before?</p> <p>13 A Let me take a look and see. (Peruses</p> <p>14 document.)</p> <p>15 So generally speaking, yes. The -- the</p> <p>16 only reason I can't say for sure I've literally</p> <p>17 seen this exact version is because that -- not</p> <p>18 that I would know when it was updated otherwise,</p> <p>19 but I don't know who's in charge of all these</p> <p>20 different -- excuse me -- websites that you found</p> <p>21 at Johns Hopkins, and so I don't know, you know,</p> <p>22 whether what I looked at is literally identical to</p> <p>23 what we're looking at here.</p> <p>24 Q All right.</p> <p>25 A But it's approximately something that</p>

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<p>1 I've seen.</p> <p>2 Q Okay. Fair.</p> <p>3 Now, this is from the Sidney Kimmel</p> <p>4 Comprehensive Cancer Center, correct?</p> <p>5 A That's right.</p> <p>6 Q And it's entitled "Risk Factors -- Risk</p> <p>7 Factors" -- excuse me -- and Symptoms." Do you</p> <p>8 see that?</p> <p>9 A I do.</p> <p>10 Q All right. And if you and this is for</p> <p>11 ovarian cancer, you see that?</p> <p>12 On the second line, "ovarian cancer," it</p> <p>13 talks --</p> <p>14 A Yes.</p> <p>15 Q Okay. Now, what I'd like you to do is</p> <p>16 turn to the second page, and there is a risk</p> <p>17 factor listed, amongst others. Do you see that?</p> <p>18 A I do.</p> <p>19 Q And it says "Talcum Powder and</p> <p>20 Asbestos." Do you see that?</p> <p>21 A Yes.</p> <p>22 Q All right. Would you read that, please.</p> <p>23 A "Habitual use of talcum powder on the</p> <p>24 genital area may increase the risk for ovarian</p> <p>25 cancer, but the evidence is not strong. A study"</p>	<p>1 up here, and I'm going to doc- -- and I'm going to</p> <p>2 go ahead and make a notation as you talk, and</p> <p>3 we're going to put your initials by that which you</p> <p>4 agree or don't agree, or that which resonates with</p> <p>5 you or that which does not.</p> <p>6 So give me a moment. Hang with me,</p> <p>7 okay?</p> <p>8 A Yeah.</p> <p>9 Q All right.</p> <p>10 MS. BROWN: Objection to the exercise.</p> <p>11 THE WITNESS: And I will say -- I mean I</p> <p>12 wasn't -- you know, that I don't necessarily --</p> <p>13 I'm not going to be able to necessarily agree or</p> <p>14 literally disagree with each one of these, but</p> <p>15 I'll just try to comment on what they -- what they</p> <p>16 have here and what it says to me.</p> <p>17 BY MS. PARFITT:</p> <p>18 Q All right. Well, why don't we take the</p> <p>19 first one.</p> <p>20 "Habitual use of talcum powder on the</p> <p>21 genital area may increase the risk for ovarian</p> <p>22 cancer, but the evidence is not strong."</p> <p>23 A Yeah.</p> <p>24 Q Do you agree with that?</p> <p>25 A I agree that the evidence is not strong.</p>
<p style="text-align: center;">Page 215</p> <p>1 -- the first sentence or the whole thing?</p> <p>2 Q The whole thing.</p> <p>3 A Yep. "A study at Harvard Medical School</p> <p>4 found that using talc this way doubled the risk,</p> <p>5 but other studies found no increased risk. Some</p> <p>6 researchers believe that talc may be carcinogenic</p> <p>7 because it contains particles of asbestos, a known</p> <p>8 carcinogen. It's been shown that rates of ovarian</p> <p>9 cancer are higher than normal in women whose jobs</p> <p>10 expose them to asbestos."</p> <p>11 Q All right. Thank you.</p> <p>12 Fair to say, Dr. Diette, that your</p> <p>13 opinions are contrary to the opinions of what --</p> <p>14 of those individuals at the Sidney Kimmel</p> <p>15 Comprehensive Cancer Center?</p> <p>16 MS. BROWN: Objection to the form of the</p> <p>17 question, lacks foundation.</p> <p>18 THE WITNESS: I wouldn't say globally.</p> <p>19 I mean there's -- there's things here that</p> <p>20 resonate with me just fine.</p> <p>21 BY MS. PARFITT:</p> <p>22 Q What resonates with you fine and what</p> <p>23 does not resonate with you?</p> <p>24 A Well, so, for example, when --</p> <p>25 Q And if you will, I'm going to put mine</p>	<p style="text-align: center;">Page 217</p> <p>1 And -- and I think it's a -- it's a pretty nuanced</p> <p>2 statement. It may increase, which leaves open</p> <p>3 that it may not increase. So I think it's a --</p> <p>4 it's a balanced statement. And their inclusion of</p> <p>5 the evidence not being strong is what resonates</p> <p>6 with me.</p> <p>7 Q Okay. Do you disagree, though, that</p> <p>8 it -- do you agree or disagree with this</p> <p>9 statement: "Habitual use of talcum powder on the</p> <p>10 genital area may increase the risk for ovarian</p> <p>11 cancer, but the evidence is not strong"?</p> <p>12 MR. LOCKE: Objection.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Do you agree with that statement?</p> <p>15 A I don't literally agree or disagree with</p> <p>16 it. I mean, I think I break it down the way that</p> <p>17 I did into those two parts.</p> <p>18 Q Okay. Well, I have a different</p> <p>19 question. I know how you want to do it, but I --</p> <p>20 I do get the ask the questions.</p> <p>21 MS. BROWN: He answered your question,</p> <p>22 Counsel.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Habitual question -- yes or no --</p> <p>25 MS. BROWN: No.</p>

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<p>1 BY MS. PARFITT:</p> <p>2 Q "Habitual use of talcum powder on the</p> <p>3 genital area may increase the risk for ovarian</p> <p>4 cancer." True or false?</p> <p>5 MR. LOCKE: Objection.</p> <p>6 MS. BROWN: Objection to the form of the</p> <p>7 question, asked and answered.</p> <p>8 You can give the same answer again.</p> <p>9 THE WITNESS: It's --</p> <p>10 MS. PARFITT: Counsel, please quit</p> <p>11 instructing the witness.</p> <p>12 MS. BROWN: Counsel, don't yell at me.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Go ahead.</p> <p>15 MS. BROWN: We can call the Judge.</p> <p>16 MS. PARFITT: I'm not yelling -- we can</p> <p>17 call the Judge because I'll tell you, I don't</p> <p>18 think he'll be -- she will be impressed.</p> <p>19 MS. BROWN: That's fine. Let's go.</p> <p>20 Let's walk right there and call her right now.</p> <p>21 MS. PARFITT: I'm not going to waste the</p> <p>22 time right now.</p> <p>23 MS. BROWN: Okay.</p> <p>24 THE WITNESS: So I don't see it as a</p> <p>25 true or false questions. I think that there's two</p>	<p>1 than "may increase the risk," and it's very</p> <p>2 different than saying it causes it.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q Okay.</p> <p>5 A So it's -- it's a pretty vague</p> <p>6 statement.</p> <p>7 Q Okay. And I think -- I hear what you're</p> <p>8 saying, but my question, and I think you just</p> <p>9 answered it, is if -- if Judge Wolfson says to</p> <p>10 you, Dr. Diette, I would like an answer to my</p> <p>11 question: Does the habitual use of talcum powder</p> <p>12 on the genital area increase the risk for ovarian</p> <p>13 cancer?</p> <p>14 My -- my question to you from Judge</p> <p>15 Wolfson.</p> <p>16 MR. LOCKE: Objection.</p> <p>17 MS. BROWN: Objection to the form of the</p> <p>18 question, asked and answered.</p> <p>19 THE WITNESS: And whether it does?</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Yeah, the question is --</p> <p>22 A Well, it doesn't say that, though.</p> <p>23 Q -- do you have -- no, no, no, I know it</p> <p>24 doesn't.</p> <p>25 A Oh.</p>
<p style="text-align: center;">Page 219</p> <p>1 parts, and I -- I like the way that I answered it.</p> <p>2 BY MS. PARFITT:</p> <p>3 Q Well, let me ask you this: My -- if</p> <p>4 Judge Wolfson, who is the judge presiding over</p> <p>5 this case, says to you, Dr. Diette, I've got a</p> <p>6 question for you -- this is in July -- do you have</p> <p>7 an opinion whether or not habitual use of talcum</p> <p>8 powder on the genital area may increase the risk</p> <p>9 for ovarian cancer, what are you going to tell</p> <p>10 her?</p> <p>11 MS. BROWN: Objection to the form of the</p> <p>12 question and to the yelling at the witness.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q I'm not yelling at you, Dr. Diette.</p> <p>15 MS. PARFITT: Everyone is saying I</p> <p>16 talk -- believe me, I'm not yelling at him. I'm</p> <p>17 not that disrespectful. Trust me, please.</p> <p>18 THE WITNESS: Okay. I don't think it</p> <p>19 does, but, you know, there's so many ways you</p> <p>20 could write this, which is why that it doesn't</p> <p>21 strike me as something to agree or disagree with.</p> <p>22 They could -- could have said "habitual use</p> <p>23 causes." They could have said that it does</p> <p>24 increase the risk.</p> <p>25 So, you know, those are very different</p>	<p style="text-align: center;">Page 221</p> <p>1 Q I'm representing -- you've already told</p> <p>2 me what you said about what's here.</p> <p>3 A I see.</p> <p>4 Q What I'm asking you is, do you have an</p> <p>5 opinion whether or not the habitual use of talcum</p> <p>6 powder -- powder on the genital area may increase</p> <p>7 the risk for ovarian cancer?</p> <p>8 A Not to quibble, but you just said does</p> <p>9 increase before that, and now it's may increase?</p> <p>10 Is it -- is it does increase --</p> <p>11 Q I'm going to do both, yeah.</p> <p>12 A Okay. Well, I think this is so watered</p> <p>13 down that it doesn't really say anything</p> <p>14 definitive when you say "may increase." If the</p> <p>15 question is about "does increase," I would say it</p> <p>16 does not increase the risk.</p> <p>17 Q Okay. And as worded, you feel that it's</p> <p>18 somewhat equivocal. Is that fair?</p> <p>19 MS. BROWN: Objection to the form of the</p> <p>20 question.</p> <p>21 THE WITNESS: Well, not the entire</p> <p>22 statement. I mean the evidence is not strong.</p> <p>23 Seems like a pretty -- a pretty potent part of the</p> <p>24 statement.</p> <p>25 BY MS. PARFITT:</p>

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<p>1 Q Okay. So you agree with "the evidence 2 is not strong."</p> <p>3 And then what about the next part, "A 4 study at Harvard Medical School found that using 5 talc this way doubled the risk, but other studies 6 found no increased risk." Do you agree with that 7 statement?</p> <p>8 MS. BROWN: Objection to the form of the 9 question.</p> <p>10 THE WITNESS: It's -- I would say maybe. 11 And the reason is because they -- they haven't 12 cited what the Harvard study is. It -- I could 13 assume, but I might be wrong that maybe it's the 14 Cramer study from '82. Maybe it's not. So I 15 don't know. So if they're citing that, then -- 16 then that might well be a correct statement. And 17 it's certainly correct that other studies have 18 found no increased risk.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q All right. So from your review of the 21 medical and scientific literature, you have seen 22 where scientists who look at the same scientific 23 and medical literature can arrive at different 24 opinions, correct?</p> <p>25 MS. BROWN: Objection to the form of the</p>	<p>1 MS. BROWN: -- of the question, 2 misstates the document, and it's been asked and 3 answered.</p> <p>4 THE WITNESS: I'd be careful a lot of 5 ways, right? I think it's -- it's easy to say 6 what, you know, Johns Hopkins is saying. I don't 7 know how well this represents Johns Hopkins as an 8 entity. I -- like I don't know who controls this 9 website. I don't know who the author was. I 10 don't know if it was -- you know, somebody who was 11 hired for the summer to create a website or 12 whether it's somebody who is a credible 13 researcher.</p> <p>14 But I also know that these kinds of 15 things populate all kinds of different websites, 16 and they're not necessarily like a policy 17 statement, you know, of a university or a hospital 18 or an entity.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q And I'll --</p> <p>21 A I would just be careful, I mean just in 22 terms of saying Johns Hopkins is saying this.</p> <p>23 Q Well, I will represent to you, and you 24 can see for yourself, that the Sidney Kimmel Comprehensive Center puts out this information.</p>
<p>1 question.</p> <p>2 THE WITNESS: Are we talking about a 3 specific topic or just you -- in general, that 4 scientists can disagree with each other?</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Scientists can disagree with each other.</p> <p>7 MS. BROWN: Objection to the form.</p> <p>8 THE WITNESS: I think in general, they 9 can disagree about all sorts of things. I don't 10 think there's a good reason to disagree about this 11 topic that we're talking about.</p> <p>12 BY MS. PARFITT:</p> <p>13 Q Well, in this particular sentence, Johns 14 Hopkins University is representing to consumers, 15 or anyone who wants to get onto the website, that 16 medical schools found -- that a study of the 17 Harvard Medical School found that using talc this 18 way doubled the risk, but other studies found no 19 increased risk.</p> <p>20 A Yes.</p> <p>21 Q Is it fair to say they're communicating 22 that there are science -- there's science out 23 there that goes both ways?</p> <p>24 MS. BROWN: Objection to the form --</p> <p>25 MR. LOCKE: Objection.</p>	<p>1 Your institution.</p> <p>2 MS. BROWN: Objection to the form of the 3 question, and misstates the document.</p> <p>4 THE WITNESS: It's the same issue. 5 Right. I mean I know the Sidney Kimmel Cancer 6 Center, and I work there. It's -- but I don't 7 know what the source is of this information, I 8 don't know who's the author, and I don't know what 9 they expect it to represent in terms of a Johns 10 Hopkins, you know, point of view.</p> <p>11 BY MS. PARFITT:</p> <p>12 Q Did anyone ever at the Sidney Kimmel 13 Comprehensive Cancer Center ever consult you with 14 regard to what language should be included on the 15 website with regard to risk factor information?</p> <p>16 A No.</p> <p>17 MS. BROWN: Objection to the form.</p> <p>18 BY MS. PARFITT:</p> <p>19 Q Okay. The second part, let's go on. If 20 you will, it starts with -- if you can read on 21 "Some," if you would read that, please.</p> <p>22 A "Some researchers believe that talc may 23 be carcinogenic because it contains particles of 24 asbestos, a known carcinogen."</p> <p>25 Q All right. And do you agree with that</p>

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<p>1 statement?</p> <p>2 MS. BROWN: Objection to the form.</p> <p>3 THE WITNESS: Well, I certainly agree</p> <p>4 that some researchers believe that, because we've</p> <p>5 seen it in plaintiffs' experts. So it's -- on its</p> <p>6 face, I think it's a -- a true -- true statement</p> <p>7 that there are people who believe that.</p> <p>8 And I think the part that asbestos is a</p> <p>9 known carcinogen is also something I agree with.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Okay. And then it goes on to say:</p> <p>12 "It's been shown that rates of ovarian cancer are</p> <p>13 higher than normal in women whose jobs expose them</p> <p>14 to asbestos."</p> <p>15 Do you agree with that statement?</p> <p>16 A So, you know, this language is -- is not</p> <p>17 great, right? It has been shown that, right. So</p> <p>18 we could look at, you know, any one of those</p> <p>19 studies that was done around World War II, for</p> <p>20 example, and if you looked at one that was</p> <p>21 positive, you could say it was shown that they</p> <p>22 were higher. I'm not sure whether the general</p> <p>23 proposition has been established, though.</p> <p>24 Q Okay.</p> <p>25 A If you guys are going to whisper, you're</p>	<p>1 out to the Food and Drug Administration to share</p> <p>2 your opinions with them?</p> <p>3 A No.</p> <p>4 Q All right. Other than counsel who has</p> <p>5 retained you to provide an expert -- a legal</p> <p>6 expert report, have you reached out to any</p> <p>7 scientific body to share your opinions?</p> <p>8 MS. BROWN: Objection to the form.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Okay. Have you reached out to any</p> <p>12 medical body to share your opinions?</p> <p>13 MS. BROWN: Objection to the form.</p> <p>14 THE WITNESS: No.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. Did you reach out to the Sidney</p> <p>17 Kimmel Comprehensive Cancer Center and the folks</p> <p>18 over there and share with them what your opinions</p> <p>19 are?</p> <p>20 A No.</p> <p>21 MS. BROWN: Asked and answered.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Do you know Dr. Merlo?</p> <p>24 A I do.</p> <p>25 Q He's a friend of yours, right?</p>
<p style="text-align: center;">Page 227</p> <p>1 going to miss what I'm saying.</p> <p>2 Q No, I was -- I was just turned.</p> <p>3 A Okay.</p> <p>4 Q I heard what you said. Thank you.</p> <p>5 A All right.</p> <p>6 Q And fortunately, I have it right here in</p> <p>7 front of you too.</p> <p>8 A Okay, good. Good, good, good.</p> <p>9 Q Yeah, thank you. And I thought you had</p> <p>10 finished what you were saying because you finished</p> <p>11 "okay," so I thought --</p> <p>12 MS. BROWN: That's your "okay," Counsel.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q I'm sorry. I believe you finished. I'm</p> <p>15 not sure whether the general proposition has been</p> <p>16 established. So I thought that was the end --</p> <p>17 A That was the end --</p> <p>18 Q -- of your sentence.</p> <p>19 A Yeah.</p> <p>20 Q Right. Okay. All right.</p> <p>21 A Are we done with this one?</p> <p>22 Q For the time being, yeah. We may come</p> <p>23 back to that.</p> <p>24 Other than providing counsel with an</p> <p>25 expert report of your opinions, have you reached</p>	<p style="text-align: center;">Page 229</p> <p>1 A He is.</p> <p>2 Q Okay. And you're Facebook friends.</p> <p>3 A I'm friends with his wife. He and I</p> <p>4 might be also, but we're friends in -- in reality,</p> <p>5 not just on --</p> <p>6 Q Not just on Facebook.</p> <p>7 A Yeah.</p> <p>8 Q Is his wife a doctor?</p> <p>9 A She is not.</p> <p>10 Q Okay. Do you know Dr. April</p> <p>11 Zambelli-Weiner?</p> <p>12 A I do.</p> <p>13 Q Okay. You have worked with her in the</p> <p>14 past, correct?</p> <p>15 A Really briefly, way back when.</p> <p>16 Q Okay. Do you consider her -- do you</p> <p>17 know she's an epidemiologist, correct?</p> <p>18 A I think I know that.</p> <p>19 Q Okay. Do you consider her an</p> <p>20 epidemiologist with expertise and well received in</p> <p>21 the medical comm -- and scientific community?</p> <p>22 MS. BROWN: Objection. Lacks</p> <p>23 foundation, calls for speculation.</p> <p>24 THE WITNESS: So I don't know much</p> <p>25 about -- about her lately. I think the last time</p>

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<p>1 that I saw her was when she was still training at 2 Hopkins. And so there's a couple of decades that 3 have gone by. So I -- so I honestly have no idea 4 what her reputation is at this point.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Okay. Did you work with her?</p> <p>7 A Sort of. Like not -- we were -- we were 8 both involved in a research project, but we 9 weren't both involved in the same part of the 10 project. So I -- it's -- to say that we worked 11 together, it's -- it's a little bit vague in a way 12 about whether we did. We traveled together for 13 one particular research program we were a part of. 14 But --</p> <p>15 Q Okay.</p> <p>16 A Like I don't think we published 17 together. I don't think.</p> <p>18 Q Do you think of her as a good scientist?</p> <p>19 MS. BROWN: Objection to the form of the 20 question, calls for speculation.</p> <p>21 THE WITNESS: I -- I honestly don't know 22 what she's -- what she's up to. I mean it's 23 literally been a couple of decades.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Sure. Well, when you did know her back</p>	<p>1 appear and give testimony, correct?</p> <p>2 A Correct.</p> <p>3 MS. BROWN: Form.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q Right. So no one inquired as to what 6 your opinions were on this topic; is that correct?</p> <p>7 MS. BROWN: Asked and answered.</p> <p>8 THE WITNESS: That is correct.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Okay. I'll represent to you that at the 11 hearing, both consumer and industry were invited 12 to attend.</p> <p>13 Are you aware that Dr. McTiernan, who is 14 an expert in this case, was one of those 15 individuals that was invited to attend?</p> <p>16 MR. LOCKE: Objection.</p> <p>17 MS. BROWN: Objection. Lacks 18 foundation.</p> <p>19 THE WITNESS: I don't know.</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Okay. You've read her expert report, 22 correct?</p> <p>23 A I did.</p> <p>24 Q And you understand that she was one of 25 the coinvestigators with the WHI study?</p>
<p style="text-align: center;">Page 231</p> <p>1 a couple of decades ago, did you consider her a 2 good scientist?</p> <p>3 MS. BROWN: Objection to the form, 4 vague, calls for speculation.</p> <p>5 THE WITNESS: I wouldn't say that I know 6 that she wasn't, but I really wasn't very familiar 7 with what her work was.</p> <p>8 BY MS. PARFITT:</p> <p>9 Q Her work. Okay. That's fair enough.</p> <p>10 Okay. Alrighty. Let's set this aside.</p> <p>11 Dr. Diette, are you aware that just last 12 month, and I believe it was March 12th, the House 13 Committee on Oversight and Reform, Committee on 14 Economic and Consumer Policy conducted a hearing 15 about the public health risk of carcinogens in 16 talcum powder products and other consumer 17 products? Were you aware of that?</p> <p>18 MR. LOCKE: Objection.</p> <p>19 MS. BROWN: Objection to the form.</p> <p>20 THE WITNESS: I saw that -- a question 21 about that in one of the deposition transcripts 22 that I -- that I read. I don't remember which 23 one. But that's my only awareness of that.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Okay. So no one requested that you</p>	<p style="text-align: center;">Page 233</p> <p>1 MS. BROWN: Objection to the form.</p> <p>2 BY MS. PARFITT:</p> <p>3 Q One of the cohorts that you rely on.</p> <p>4 MS. BROWN: Foundation, speculation.</p> <p>5 THE WITNESS: That's what I understand.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Okay. When you were writing your expert 8 report and researching the cohort studies, did you 9 ever reach out to Dr. McTiernan to consult with 10 her with regard to her thoughts and opinions about 11 that particular cohort study?</p> <p>12 MS. BROWN: Objection to the form.</p> <p>13 Which study?</p> <p>14 MS. PARFITT: I said the WHI study.</p> <p>15 MS. BROWN: It's not in your question.</p> <p>16 THE WITNESS: Assuming the WHI study, I 17 did not.</p> <p>18 BY MS. PARFITT:</p> <p>19 Q Okay. Dr. McTiernan testified at that 20 hearing, and her testimony went uncontested, 21 that there was a statistically significant 22 increased risk of 22 to 31 percent of developing 23 ovarian cancer from genital use of talcum powder 24 products.</p> <p>25 Do you agree or disagree with that?</p>

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<p>1 MR. LOCKE: Objection.</p> <p>2 MS. BROWN: Objection. This lacks</p> <p>3 foundation. Counsel, are you giving him a</p> <p>4 hypothetical? Or if not, are you going to give</p> <p>5 him something that would support the statements</p> <p>6 that you're making on the record?</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Assume that Dr. McTiernan testified</p> <p>9 before the subcommittee who was investigating the</p> <p>10 safety of talcum powder products, that</p> <p>11 Dr. McTiernan testified that there was scientific</p> <p>12 evidence that women who used talcum powder</p> <p>13 products have a statistically significant</p> <p>14 increased risk of 22 to 31 percent of developing</p> <p>15 ovarian cancer.</p> <p>16 A So, first of all --</p> <p>17 MS. BROWN: Wait, wait. What's the</p> <p>18 question?</p> <p>19 BY MS. PARFITT:</p> <p>20 Q And I should add developing epithelial</p> <p>21 ovarian cancer having used talcum powder products.</p> <p>22 MS. BROWN: What's the question? You</p> <p>23 just gave an assumption.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Do you --</p>	<p>1 March 12th, 2019.</p> <p>2 Do you see that?</p> <p>3 A I see it.</p> <p>4 Q Okay. If I can direct your attention</p> <p>5 to -- and I'll represent that this was a statement</p> <p>6 that she submitted prior to the hearing, and</p> <p>7 specifically -- I can put it on the ELMO here.</p> <p>8 Let's go down to the third full paragraph.</p> <p>9 Do you see that, it starts</p> <p>10 "Summarizing"?</p> <p>11 A Yes.</p> <p>12 Q Okay. And it states: "Summarizing data</p> <p>13 from all of the published studies consistently</p> <p>14 shows that women who had ever used talcum powder</p> <p>15 products in the genital area had a statistically</p> <p>16 significant 22 to 31 percent increased risk of</p> <p>17 developing epithelial ovarian cancer compared with</p> <p>18 women who had never used them. Evidence suggests</p> <p>19 that these associations hold across diverse race</p> <p>20 and ethnic groups."</p> <p>21 Did I read that correctly?</p> <p>22 A You did.</p> <p>23 Q All right. Do you agree with that</p> <p>24 statement?</p> <p>25 MS. BROWN: Objection to the form.</p>
<p style="text-align: center;">Page 235</p> <p>1 MS. PARFITT: I just was finishing.</p> <p>2 BY MS. PARFITT:</p> <p>3 Q But do you agree with her statement</p> <p>4 before Congress?</p> <p>5 MS. BROWN: Objection to the form.</p> <p>6 MR. LOCKE: Objection.</p> <p>7 MS. BROWN: Incomplete hypothetical,</p> <p>8 lacks foundation, calls for speculation.</p> <p>9 THE WITNESS: So I don't know what she</p> <p>10 said -- and I know you're asking me to assume what</p> <p>11 she said -- I don't know what else she said about</p> <p>12 it, so how the -- how that's framed -- it sounds</p> <p>13 compatible generally with what her report had at</p> <p>14 least one sentence about.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. Let me show you what we'll have</p> <p>17 marked as Exhibit 13.</p> <p>18 (Diette Exhibit No. 13 was marked</p> <p>19 for identification.)</p> <p>20 BY MS. PARFITT:</p> <p>21 Q And I'll represent to you that this</p> <p>22 is the statement of Ann McTiernan that was</p> <p>23 prepared for the Subcommittee on Economic and</p> <p>24 Consumer Policy on "Examining the Public Health</p> <p>25 Risks of Carcinogens in Consumer Products" dated</p>	<p style="text-align: center;">Page 237</p> <p>1 THE WITNESS: Well, I think this is</p> <p>2 compatible with what, you know, her report and her</p> <p>3 testimony has been generally. I think it's --</p> <p>4 it's -- unfortunately, it's not very balanced,</p> <p>5 right. I mean she -- she's leaving out an awful</p> <p>6 lot of information here and -- and really</p> <p>7 referring just to one narrow slice of the evidence</p> <p>8 that she's -- that she's citing here.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Okay. What did she leave out, Doctor?</p> <p>11 A I'm sorry?</p> <p>12 Q What is she leaving out?</p> <p>13 A Well, saying that -- that "data from all</p> <p>14 the published studies consistently shows that</p> <p>15 women who had ever used talcum powder products in</p> <p>16 the genital area had a statistically significant</p> <p>17 22 to 31 percent increased risk," and I won't</p> <p>18 finish the rest, but, you know, of developing</p> <p>19 ovarian cancer.</p> <p>20 So, you know, they don't all have a</p> <p>21 statistically significant increase, and she's</p> <p>22 leaving out information that would run counter to</p> <p>23 that also, including I think -- let me just see</p> <p>24 what she cites.</p> <p>25 She cites Berge and Penninkilampi and</p>

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<p>1 Terry, but there's other information in there, 2 like from Berge, for example, you know, who points 3 out that there's no risk seen in the cohort 4 studies. So I think if this were balanced, that 5 she would -- she would have more information than 6 just that particular statement.</p> <p>7 Q Okay. And we'll talk a little bit more 8 about the -- the cohorts in just -- just a moment.</p> <p>9 Q Okay. What was the methodology you 10 employed in order to present the opinions and 11 bases for opinions in your report?</p> <p>12 A So generally, I tried to identify all of 13 the relevant epidemiologic studies -- is that what 14 you're -- you're asking?</p> <p>15 Q That is?</p> <p>16 A Okay.</p> <p>17 Q That is.</p> <p>18 A And so I tried to find them in an 19 iterative way, you know, meaning that there were 20 meta-analyses that had many of them listed. I did 21 some searches of their own reference lists to look 22 for others. I did searches, you know, using 23 web-based, you know, tools to find other -- other 24 studies, and tried to get what I thought was a 25 pretty comprehensive group of all the</p>	<p>1 search terms that you used in order to do your 2 literature review?</p> <p>3 A I didn't -- I didn't write them down, 4 but it -- you know, this didn't start as like a -- 5 like a -- like there's been some searches that 6 I've been involved in where, you know, somebody 7 might commission a review of a particular topic, 8 and you have to figure out what those search terms 9 are.</p> <p>10 In this case, there's a really good head 11 start because there's meta-analyses done and 12 there's some other -- some other papers. And so 13 what I tried to use was the words that the authors 14 used, you know, assuming that they would then link 15 up and find the other -- other articles.</p> <p>16 So -- so like "ovarian cancer," "talc," 17 "talcum powder," probably some -- you know, some 18 words like "risk" and "cause" and -- I think for 19 that part of it that was -- that was kind of the 20 bulk of it. There may have been other terms that 21 came up in some of the -- some of the articles 22 that I would search for also, but that -- that was 23 the main ones.</p> <p>24 Q Did you search for the word "cancer"?</p> <p>25 A Oh, well, "ovarian cancer."</p>
<p style="text-align: center;">Page 239</p> <p>1 epidemiologic studies.</p> <p>2 And then I also tried to read other 3 things, you know, IARC monographs, other -- like 4 reports from like American College of Obstetrics 5 and Gynecology, and -- and get a sense of how some 6 of the information was being interpreted by 7 other -- other bodies.</p> <p>8 And -- and then ultimately looked at 9 criteria that people recognize as useful for 10 assessing causation, which are labeled sometimes 11 Bradford Hill considerations, and then other 12 things too.</p> <p>13 So besides that, then, you know, looking 14 at the quality of the studies in some cases. So, 15 for example, were there valid measures of -- of 16 exposure that were used, was there evidence for 17 confounding and bias, and so forth.</p> <p>18 Q All right.</p> <p>19 A Meaning especially those latter 20 aren't -- those latter factors aren't part of 21 Bradford Hill. Like he doesn't talk about, you 22 know, bias and confounding and validity of the 23 measures and so forth. So there's more to looking 24 at it than just Bradford Hill.</p> <p>25 Q Okay. So what was -- what were the</p>	<p style="text-align: center;">Page 241</p> <p>1 Q Okay. Did you search for the word 2 "asbestos"?</p> <p>3 A I did, but differently -- so I did sort 4 of a separate search for that, which was "asbestos 5 and ovarian cancer." Same approach, but -- but 6 different -- I thought we were just talking about 7 the talcum powder at the moment.</p> <p>8 But separately, I did a search for 9 "asbestos and -- and ovarian cancer." And -- and 10 just like for this issue of talcum powder, there 11 was a good head start from -- from IARC, at least 12 having identified several -- several key studies, 13 and then looked for more because there were 14 obviously some that they didn't cite or that 15 weren't available to them at the time that they 16 did their -- their review.</p> <p>17 Q Did you search for the word 18 "inflammation"?</p> <p>19 A I did, for -- part of the searches was 20 for inflammation.</p> <p>21 Q Okay.</p> <p>22 A I should say also -- I mean there's more 23 to it if you want, just a little bit more.</p> <p>24 Q No. Let me ask you a question first.</p> <p>25 A Okay.</p>

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<p>1 Q There's no question pending. 2 I assume you did a literature search 3 back in the early part of 2017 when you were first 4 retained, correct? 5 A Correct. 6 Q All right. So did you update that 7 literature search? 8 A Oh, yeah. 9 Q Okay. Did you keep -- do you keep some 10 kind of recordation of material you had before and 11 then what material you're looking at now for 12 purposes of this most recent report? 13 A No, I mean it's not sorted by -- by when 14 I found it. 15 Q All right. You represented, at least in 16 your report, that you looked at the databases 17 Medline and Google. 18 Did you use any other databases for your 19 research? 20 A Well, scholar -- Google Scholar as 21 opposed to just plain Google and then main Google 22 itself. I don't remember if I used any others. 23 Q Okay. Where in your report do you share 24 your systematic review and collection of the 25 various literature that formed the bases of your</p>	<p>1 A Some -- 2 MS. BROWN: Objection to the form. 3 THE WITNESS: Some of it. 4 BY MS. PARFITT: 5 Q Okay. And how did you select the 6 case -- the cases that became part of your list of 7 cases on page 13 and 14 of your report? 8 A What does "cases" mean? 9 Q Studies. You have them listed on 10 page 13, and it carries over to page 14. 11 A It's -- the way I describe it, I don't 12 think I got to finish answering the question about 13 the -- the rest of the methodology. You'd have to 14 turn over to page 6, and in the section called 15 "Review of Epidemiology Data," there's a 16 description of what I just told you verbally just 17 a moment ago, which is talking about MedLine and 18 Google Scholar, and reviewed the reference list of 19 the individual studies and the meta-analyses to 20 assemble a complete list of studies, and then I -- 21 it goes on. That's not the whole paragraph 22 obviously, but that's the -- that's the general 23 method of how I found them. 24 Q Okay. And what process did you go 25 through to select or deselect certain pieces of</p>
<p>1 opinion? 2 A I didn't write that part, I don't think, 3 but it -- I do talk about the -- the methodology 4 in general. 5 Q Okay. Well, you talk about the 6 methodology on page -- I believe it's page 4, and 7 there's about two paragraphs there, and then on 8 the top of page 5, where there's just two full 9 paragraphs. 10 So my question is, where do you -- is 11 there anywhere else in your report that you set 12 forth your methodology -- 13 A Yeah. 14 Q -- employed in order to -- 15 A Sure, other places -- 16 Q -- form the basis for your opinions? 17 A Sorry, I didn't mean to interrupt. 18 Q No, and what I'm saying -- 19 A Were you done? 20 Q -- you have a methodology section -- 21 let's start over. 22 You have a methodology section of your 23 report. Is it fair that that is where you set 24 forth the methodology that you employ in this 25 case?</p>	<p>1 literature that you reviewed? 2 A Well, I -- I included all of the ones 3 that I could find. I mean we're talking about the 4 epidemiologic studies. 5 Q We are. We are indeed, yeah. 6 A So like in terms of the cohort studies, 7 there's only three I could find. There's more 8 than three publications that pertain to the three, 9 but I included all three, and I included all the 10 publications I could find on the topic. 11 But the case-control study, a similar 12 approach, although there's a little bit of 13 confusion with the case controls because there's 14 overlap. There is a redundant publication where 15 some authors are presenting the same data twice, 16 and it's not entirely clear how to unravel them. 17 So I just tried to include as many of those as I 18 could that looked like distinct studies, and I 19 tried to make sure I had the -- you know, the vast 20 majority of what was being considered in the 21 meta-analysis as well. 22 Q I think where I'm going is, where do 23 you -- where do you tell the -- the reader what 24 your inclusion criteria was for selecting studies? 25 MS. BROWN: Objection to the form.</p>

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<p>1 THE WITNESS: I tried to get them all. 2 I wasn't trying to exclude any studies. 3 BY MS. PARFITT: 4 Q So every -- so may I assume from that 5 statement that all of the literature that you've 6 listed on page 13 and 14 in the cohort studies and 7 the meta-analysis is the entire body of literature 8 that you reviewed? 9 A Of course not. 10 MS. BROWN: Objection to the form. 11 THE WITNESS: No, no, what -- well, I 12 guess, if you could, please be very precise what 13 you're asking. 14 To me what I think we're talking about 15 is the case-control studies and the cohort 16 studies, and so I tried to identify every single 17 one of them. So I didn't have an exclusion 18 criteria to say I was going to ignore this one 19 because it wasn't supportive of my view or 20 something like that. I included them all. 21 I searched for clinical trials, but 22 there weren't any. So that was -- that was an 23 issue as well. 24 BY MS. PARFITT: 25 Q Were there any studies that you chose</p>	<p>1 of the risk -- risk estimates, not of the number 2 of cases. 3 BY MS. PARFITT: 4 Q Correct. So where on this page 13 or 14 5 do you tell the reader how many ovarian cancer 6 cases were part of that study? 7 MS. BROWN: Objection to the form. 8 THE WITNESS: It's not on there. 9 BY MS. PARFITT: 10 Q Okay. Where on your list of cases, 13 11 and 14, do you tell the reader the number of 12 controls that were involved in that study? 13 A I didn't -- I didn't list every single 14 thing like that on here. 15 Q You didn't list it in your report 16 either, correct? 17 MS. BROWN: Objection to the form. 18 THE WITNESS: Well, this is the report. 19 BY MS. PARFITT: 20 Q Well, you didn't list it anywhere else 21 other -- that information is not contained in your 22 report. Is that fair? 23 MS. BROWN: Objection to the form. 24 MR. LOCKE: Objection. 25 THE WITNESS: The sample size?</p>
<p style="text-align: center;">Page 247</p> <p>1 not to include on your list of 13 and 14 that you 2 had actually reviewed during the course of your 3 study? 4 A And we're talking about case-control 5 studies and cohorts. 6 Q Correct. 7 A I didn't -- wait a minute. I didn't 8 deliberately not include any of them. I tried to 9 include every single one, with that exception 10 being -- and I don't remember which ones were 11 which, but there were a couple that were 12 redundant. You know, the -- the authors of these 13 haven't in every case been careful about reporting 14 findings that are unique. 15 Q Okay. Focusing now, if I may, on your 16 chart, page 13 and 14 of the case-control studies. 17 Do you have that in front of you? 18 A Almost. 19 Q Okay. 20 A I do. 21 Q All right. Where in this document, 22 page 13 and 14, do you identify the number of 23 ovarian cases that formed the bases of the study? 24 MS. BROWN: Objection to the form. 25 THE WITNESS: This is the list of the --</p>	<p style="text-align: center;">Page 249</p> <p>1 BY MS. PARFITT: 2 Q The sample size is not information that 3 you contained -- that you included in your report, 4 correct? 5 A I did not. 6 MS. BROWN: Same objection. 7 BY MS. PARFITT: 8 Q Okay. Where in your report do you tell 9 the reader the country from where these studies 10 came from? 11 MS. BROWN: Objection to the form. 12 THE WITNESS: I don't list that. 13 BY MS. PARFITT: 14 Q Okay. Where do you tell the reader what 15 the mean age of the participants in this study 16 were? 17 MS. BROWN: Same objection. 18 THE WITNESS: And same answer, I 19 don't -- I don't list that either. 20 BY MS. PARFITT: 21 Q Where in your report do you tell the 22 reader the number of adjusted variables per study 23 that were considered? 24 MS. BROWN: Objection to the form. 25 THE WITNESS: I didn't -- I didn't</p>

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<p>1 capture that here.</p> <p>2 BY MS. PARFITT:</p> <p>3 Q Okay. And where in your report do you</p> <p>4 tell the reader the type of ovarian cancer that</p> <p>5 the women suffered?</p> <p>6 MS. BROWN: Objection to the form.</p> <p>7 THE WITNESS: That's not listed on -- on</p> <p>8 this table either.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Did you create this table yourself or</p> <p>11 did you have assistance?</p> <p>12 A So, actually, I made this initially, and</p> <p>13 there might have been a couple that filtered in</p> <p>14 after I started to create it where -- you know,</p> <p>15 where I had an assistant, you know, plug in a</p> <p>16 different study.</p> <p>17 Q Where in your report do you tell the</p> <p>18 reader if you applied a scoring system to the data</p> <p>19 and the studies that you reviewed?</p> <p>20 A That wasn't --</p> <p>21 MS. BROWN: Objection. Lacks</p> <p>22 foundation.</p> <p>23 THE WITNESS: That wasn't my approach.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Okay. We'll talk about that in a</p>	<p>1 Q What specific, if any, in vitro studies</p> <p>2 did you consider for purposes of your opinion?</p> <p>3 A So I -- are you good?</p> <p>4 Q Yeah, thank you.</p> <p>5 A Okay. So I -- I don't know if you're</p> <p>6 including some animal studies as in vitro studies</p> <p>7 or whether you just mean sort of like ones that</p> <p>8 are -- that are cell-based or in a dish.</p> <p>9 Q Well, there's a difference, isn't there?</p> <p>10 A There should be, yeah, but I just --</p> <p>11 since you're asking the question, I don't know</p> <p>12 you, and so I -- I just want to be clear.</p> <p>13 Q No, I'm -- I'm cognizant of the</p> <p>14 difference between in vivo and in vitro, so what</p> <p>15 I -- what I would ask you is what in vitro studies</p> <p>16 did you consider for purposes of your analysis?</p> <p>17 A Yeah, I looked at some. I think the</p> <p>18 ones that were cited by IARC I looked at. I don't</p> <p>19 remember the full list of ones -- which ones I may</p> <p>20 have listed, if any, that -- that I looked at.</p> <p>21 But that wasn't really my main -- my main purpose</p> <p>22 in looking at the epidemiology, which was to --</p> <p>23 was to look at in vitro studies.</p> <p>24 Q Okay. Was part of your analysis -- or</p> <p>25 did part of your analysis include looking at</p>
<p style="text-align: center;">Page 251</p> <p>1 minute. Appreciate that.</p> <p>2 Did you exercise any independent</p> <p>3 judgment in determining what cases to include on</p> <p>4 this chart of case-control studies on 13 and 14?</p> <p>5 MS. BROWN: Objection. Asked and</p> <p>6 answered.</p> <p>7 THE WITNESS: I tried to be inclusive.</p> <p>8 BY MS. PARFITT:</p> <p>9 Q Being inclusive -- did being inclusive</p> <p>10 require you to exercise professional judgment with</p> <p>11 regard to selection of the cases that you reviewed</p> <p>12 and included for purposes of your analysis?</p> <p>13 A So, mostly, yes. What I would say is I</p> <p>14 was trying to understand what the universe was of</p> <p>15 case controls that were being listed in the</p> <p>16 meta-analyses, what the case controls were that</p> <p>17 were informing the opinions of the plaintiffs'</p> <p>18 experts. And so I didn't want to have some</p> <p>19 arbitrary rule for saying one shouldn't be in</p> <p>20 here. I wanted to look at them all. And so my</p> <p>21 goal was actually to include them all, and not</p> <p>22 deselect some because I thought that there was a</p> <p>23 quality issue with them.</p> <p>24 (Brief interruption.)</p> <p>25 BY MS. PARFITT:</p>	<p style="text-align: center;">Page 253</p> <p>1 in vivo studies?</p> <p>2 A So I looked at -- at a bunch of the</p> <p>3 different animal studies that were cited, cited in</p> <p>4 some of the other documents.</p> <p>5 Q Which ones?</p> <p>6 A So I don't remember the author names. I</p> <p>7 mean, there were -- there were studies of, you</p> <p>8 know, rats, rabbits, primates. I can't remember</p> <p>9 if there were mouse -- there were mouse studies as</p> <p>10 well.</p> <p>11 So whatever that list is that was in</p> <p>12 IARC that they had considered at that point, and</p> <p>13 then I think I found a couple more.</p> <p>14 Q What, if any, information did you glean</p> <p>15 from your review of the in vitro and in vivo</p> <p>16 studies that formed the basis of your study</p> <p>17 report?</p> <p>18 A Well, mostly -- so to -- to think about</p> <p>19 how -- for me as an epidemiologist, and not as a</p> <p>20 cancer biologist or molecular biologist, I wanted</p> <p>21 to just understand generally how some of the other</p> <p>22 entities were wielding that information, right.</p> <p>23 So that -- like I wasn't about to become a cancer</p> <p>24 biologist in reading these things or understand</p> <p>25 whether their methods were appropriate or not, but</p>

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<p>1 I did want to understand some of their 2 underpinnings. 3 Q Okay. 4 A And just so, for example, right, so 5 there's the -- the studies on migration, for 6 example. I thought it was important to look at 7 those and see what kind of animals, for example, 8 had what kind of particles either put into their 9 vaginas or put into their uterus, or whatever it 10 was, so I could understand what the -- what the 11 story was there. 12 Q Okay. Do animals have vaginas? 13 A Some do, yeah. 14 Q You -- you indicated you're not a cancer 15 specialist. Would you defer to -- on topics 16 involving those issues to a cancer biologist? 17 MS. BROWN: Objection to the form of the 18 question. 19 BY MS. PARFITT: 20 Q And let me clean it up because I think I 21 left that off. You are not a cancer biologist, 22 correct? 23 A Correct. 24 Q All right. So would you defer questions 25 in that wheelhouse to someone who is a cancer</p>		<p>1 MS. BROWN: What report is -- 2 MS. PARFITT: Saed. 3 BY MS. PARFITT: 4 Q Just give me a moment, Doctor. 5 If you turn your attention to page 42. 6 A Mm-hmm. 7 Q At the bottom. 8 A Okay. 9 Q "I leave a detailed assessment of 10 Dr. Saed's efforts to other experts. I did review 11 Dr. Saed's report and his two depositions and was 12 struck by the irregularities in his study, which 13 render his results highly questionable." 14 So are you or are you not deferring with 15 regard to opinions concerning what Dr. Saed had to 16 say? 17 MS. BROWN: Objection. Misstates the 18 expert report and the opinion. 19 THE WITNESS: I -- I meant to be 20 somewhat nuanced here, right, which is that -- you 21 know, it's possible for me to read things and 22 understand that there might be some issues with 23 what he's done. I -- I'm not going to be the 24 person to critique the biologic aspects of his 25 work, though.</p>
	<p>1 biologist? 2 MS. BROWN: Same objection. 3 THE WITNESS: So I mostly don't think 4 about deferring my opinions to other -- other 5 people's categorically. You know, so that I think 6 if there were somebody that was a cancer biologist 7 and they had an opinion that seemed credible, I 8 would take it into account. But to the extent 9 that I needed to understand something, I would 10 still rely on my own -- my own background and 11 knowledge. 12 BY MS. PARFITT: 13 Q All right. You're not a -- a molecular 14 specialist, correct? 15 MS. BROWN: Objection. 16 THE WITNESS: Not a molecular biologist. 17 BY MS. PARFITT: 18 Q Okay. I believe you stated in your 19 report that you were deferring to other experts in 20 this case as it pertains to the opinions that 21 Dr. Saed has given; is that correct? 22 MS. BROWN: Objection to the form. 23 Counsel, is there a part of the report you're 24 referring to? 25 MS. PARFITT: Mm-hmm, there is.</p>	<p>1 BY MS. PARFITT: 2 Q Okay. Fair enough. In fact, let me ask 3 you, have you read the published scientific 4 article by Dr. Saed? 5 A Not yet. 6 Q Okay. Do you have any plans to do that? 7 A I might. I might, because I was just -- 8 I was curious because I saw some of the -- like 9 the expert reports that came in after I wrote my 10 report, and there were things that just kind of 11 struck me that would be worth trying to sort 12 through, like whether he had changed like 48 to 36 13 or -- yeah, 48 hours to 72 hours, whatever it was, 14 that there were like some tables apparently that 15 were the same as an original paper, that the only 16 change was like the numbers on them. And so just 17 to sort of understand the quality issues related 18 to the study, I thought I might take a look at it. 19 Q All right. But prior to preparing your 20 expert report, and, frankly, this deposition 21 today, you have not read either Dr. Saed's -- you 22 have not read Dr. Saed's most current peer- 23 reviewed paper, correct? 24 A True for both time periods. I don't 25 think it was published or available to me before I</p>

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<p>1 did the report, but I could be wrong.</p> <p>2 Q Well, it's available now, isn't it?</p> <p>3 A That's what I've heard.</p> <p>4 MS. BROWN: Objection to the form.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q But you've not seen it.</p> <p>7 A No. I just -- I mean like -- I mean</p> <p>8 it -- sorry, it's the way I think. It sounds like</p> <p>9 two different time periods. One was --</p> <p>10 Q No.</p> <p>11 A -- before the report and one was between</p> <p>12 then and now.</p> <p>13 Q No, my question goes --</p> <p>14 MS. BROWN: Wait, he's finishing. Let</p> <p>15 him finish.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q My question -- are you done?</p> <p>18 A I'm good.</p> <p>19 Q My question really goes to, is it fair</p> <p>20 to say that you have not read Dr. Saed's published</p> <p>21 peer-reviewed article at the time of your</p> <p>22 deposition?</p> <p>23 A That is correct.</p> <p>24 THE WITNESS: Sorry.</p> <p>25 MS. BROWN: That's all right.</p>	<p>1 think, but I've certainly read other -- I mean</p> <p>2 others that aren't on either of those topics.</p> <p>3 Q Would you agree -- would you agree that</p> <p>4 IARC is a well-respected scientific organization?</p> <p>5 MS. BROWN: Object -- I'm sorry. I</p> <p>6 didn't hear the question.</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Would you agree that IARC is a well-</p> <p>9 respected scientific organization?</p> <p>10 MS. BROWN: Objection to the form.</p> <p>11 THE WITNESS: It's -- it's hard for me</p> <p>12 to characterize whole organizations, you know, in</p> <p>13 terms of whether they're well respected or by whom</p> <p>14 or when, but generally speaking, you know, they --</p> <p>15 they do produce some -- some credible documents.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q They do produce some credible documents.</p> <p>18 It's -- IARC is part of the World Health</p> <p>19 Organization, correct?</p> <p>20 A It is.</p> <p>21 Q Okay. And when IARC has its meetings to</p> <p>22 discuss classification of carcinogens, it invites</p> <p>23 world-renowned experts for whatever area and</p> <p>24 specialty is being discussed. Is that fair?</p> <p>25 MS. BROWN: Objection to the form.</p>
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<p>1 BY MS. PARFITT:</p> <p>2 Q Okay. Now, you've mentioned IARC a</p> <p>3 couple of times during the course of your</p> <p>4 testimony.</p> <p>5 Have you rereviewed the IARC</p> <p>6 monograms -- or the IARC monogram that was</p> <p>7 published in 2010 on silica?</p> <p>8 MS. BROWN: The monograph?</p> <p>9 MS. PARFITT: The monograph. Monograph.</p> <p>10 MS. BROWN: Monograph on talc?</p> <p>11 MS. PARFITT: On talc, mm-hmm.</p> <p>12 THE WITNESS: Did you just say silica or</p> <p>13 no?</p> <p>14 BY MS. PARFITT:</p> <p>15 Q I did say silica. I meant talc.</p> <p>16 A You meant talc. Yeah, I've read the</p> <p>17 talc one.</p> <p>18 Q You've read the talc one. Have you read</p> <p>19 the 2012 monograph, the one 100C, have you seen</p> <p>20 that?</p> <p>21 A I have.</p> <p>22 Q Okay. Have you read any other</p> <p>23 monographs on talc or asbestos?</p> <p>24 A I've read earlier ones on asbestos. I</p> <p>25 don't know of any other ones on talc, I don't</p>	<p>1 MR. LOCKE: Objection.</p> <p>2 MS. BROWN: Calls for speculation.</p> <p>3 THE WITNESS: I don't know their</p> <p>4 selection process, but they -- but they certainly</p> <p>5 invite -- invite people to attend.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Okay. Have you ever been invited to</p> <p>8 attend an IARC --</p> <p>9 A I have not.</p> <p>10 Q -- working group?</p> <p>11 A No.</p> <p>12 Q Okay. Did IARC invite you to attend</p> <p>13 their working group back in 2006 when they were</p> <p>14 deliberating on the issue of talcum -- talc</p> <p>15 products?</p> <p>16 MS. BROWN: Objection. Same question,</p> <p>17 asked and answered.</p> <p>18 THE WITNESS: She's right, but -- but</p> <p>19 no.</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Okay. Did IARC ever invite you to</p> <p>22 attend and share your opinions when they had their</p> <p>23 asbestos meetings?</p> <p>24 MS. BROWN: Same objection.</p> <p>25 THE WITNESS: No.</p>

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<p>1 BY MS. PARFITT:</p> <p>2 Q Do you know what the NTP is?</p> <p>3 A It's like the National Toxicological</p> <p>4 Program.</p> <p>5 Q Okay. Has the National Toxicological</p> <p>6 Program ever asked you to do research for them on</p> <p>7 talcum powder products?</p> <p>8 A No.</p> <p>9 Q Has the National Toxicology Program ever</p> <p>10 asked that you do research with them on asbestos?</p> <p>11 A No.</p> <p>12 Q Have you ever submitted any research to</p> <p>13 the NTP on anything?</p> <p>14 A No.</p> <p>15 Q Have you ever submitted any research to</p> <p>16 IARC on anything?</p> <p>17 A No.</p> <p>18 Q What is a risk factor?</p> <p>19 MS. BROWN: Objection to the form.</p> <p>20 THE WITNESS: Are we talking about like</p> <p>21 an epidemiologic definition?</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Just generally, what's a risk factor?</p> <p>24 MS. BROWN: Objection.</p> <p>25 THE WITNESS: Well, I don't -- you said</p>	<p>1 Q For instance, if -- is talcum powder a</p> <p>2 modifiable behavior -- the use of talcum powder a</p> <p>3 modifiable behavior?</p> <p>4 MS. BROWN: Objection. Misstates his</p> <p>5 prior testimony.</p> <p>6 THE WITNESS: So it -- it should be,</p> <p>7 yeah.</p> <p>8 BY MS. PARFITT:</p> <p>9 Q Okay. Now, Dr. Diette, your paper or</p> <p>10 your expert report was signed and executed by you</p> <p>11 on February 25th, 2019.</p> <p>12 A Correct.</p> <p>13 Q Okay. When did you actually finish the</p> <p>14 paper, the report?</p> <p>15 A Oh, I think about then. I mean --</p> <p>16 Q About then?</p> <p>17 A I think around then. I mean it's -- I</p> <p>18 don't know whether it was the day before or the --</p> <p>19 or that actual day, but -- but right around then.</p> <p>20 Q Okay. Are you aware that -- I guess it</p> <p>21 was just a couple of months earlier that Health</p> <p>22 Canada issued and published a critical review and</p> <p>23 assessment of the science, which actually included</p> <p>24 a comprehensive review of the epidemiological</p> <p>25 literature? Did you know that?</p>
<p style="text-align: center;">Page 263</p> <p>1 generally. It could mean a million things to</p> <p>2 different people.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q What's it mean to you?</p> <p>5 A It depends upon the context. That's why</p> <p>6 I'm asking from like an epidemiologic standpoint</p> <p>7 as opposed to some other context.</p> <p>8 Q Well, let's take mesothelioma. What are</p> <p>9 the risk factors for mesothelioma?</p> <p>10 A Well, if we're talking about, you know,</p> <p>11 asbestos, for example, as one risk factor, then</p> <p>12 you could use it that way, that -- that an</p> <p>13 exposure elevates the risk of developing a</p> <p>14 disease.</p> <p>15 Q Okay. Let's take talcum powder. Is</p> <p>16 talcum powder a risk factor for ovarian cancer?</p> <p>17 A I don't believe so.</p> <p>18 Q Are there risk factors that are</p> <p>19 modifiable?</p> <p>20 MS. BROWN: Objection to the form.</p> <p>21 THE WITNESS: For what?</p> <p>22 BY MS. PARFITT:</p> <p>23 Q For a disease.</p> <p>24 MS. BROWN: Same objection.</p> <p>25 BY MS. PARFITT:</p>	<p style="text-align: center;">Page 265</p> <p>1 MR. LOCKE: Objection.</p> <p>2 MS. BROWN: Objection. That misstates</p> <p>3 the draft assessment.</p> <p>4 THE WITNESS: I'm familiar with it.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Okay. Have you read it?</p> <p>7 A I have.</p> <p>8 Q Have you read it in its entirety?</p> <p>9 A I don't remember if there's like</p> <p>10 appendices or something, but I read all the -- you</p> <p>11 know, the mean part of the text.</p> <p>12 Q Okay. There is also meta-analysis that</p> <p>13 was performed about that same time.</p> <p>14 A Yes. Yeah.</p> <p>15 Q Have you read that?</p> <p>16 A I have.</p> <p>17 Q Okay. Did Health Canada do what we</p> <p>18 would refer to in your world of epidemiology a</p> <p>19 causality assessment?</p> <p>20 MS. BROWN: Objection to the form of the</p> <p>21 question.</p> <p>22 THE WITNESS: I don't know if that's</p> <p>23 what they did.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q What did they do?</p>

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<p>1 MS. BROWN: Objection.</p> <p>2 THE WITNESS: It looks to me as if they</p> <p>3 create -- well, so I don't know. So they -- they</p> <p>4 have their own process. I don't know anything</p> <p>5 about Health Canada, so I don't know what they</p> <p>6 typically do. You know, I've never -- it's unlike</p> <p>7 some other entities where I would kind of</p> <p>8 understand their process because I've read their</p> <p>9 things before.</p> <p>10 I don't -- I don't know anybody</p> <p>11 personally that looks to Health Canada for</p> <p>12 information, so I've never had a conversation with</p> <p>13 anybody about, you know, what their methods are,</p> <p>14 how they go about their business.</p> <p>15 But it looks as if what they were trying</p> <p>16 to do was to try to line up whether there was</p> <p>17 information about where talcum powder is found in</p> <p>18 Canada, so meaning like, you know, how many</p> <p>19 different kinds of products. It looked like they</p> <p>20 were trying to assess some things about dermal</p> <p>21 absorption or not, whether it's ingested or not,</p> <p>22 whether it's inhaled, whether perineal application</p> <p>23 matters or not.</p> <p>24 It seems that they commissioned yet</p> <p>25 another meta-analysis of some sort by Dr. Taher,</p>	<p>1 fair?</p> <p>2 MS. BROWN: Objection to the form.</p> <p>3 THE WITNESS: That looks to be part of</p> <p>4 what they've included in here.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q And you yourself, for purposes of your</p> <p>7 report, looked at case-control studies, cohort</p> <p>8 studies, and meta-analyses, correct?</p> <p>9 A I did.</p> <p>10 Q Okay. Did Health Canada perform a</p> <p>11 Bradford Hill assessment of the evidence?</p> <p>12 MS. BROWN: Objection to the form.</p> <p>13 THE WITNESS: They have a section here.</p> <p>14 I mean, there's something here that -- that</p> <p>15 resembles a Bradford Hill analysis.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Okay. Let me direct your --</p> <p>18 MS. BROWN: Take as long as you need,</p> <p>19 Doctor, to finish your answer.</p> <p>20 THE WITNESS: Well, I just -- like I</p> <p>21 don't know -- I don't know how much leeway there</p> <p>22 is in the world for people to say that they did a</p> <p>23 Bradford Hill analysis just by listing out certain</p> <p>24 keywords, right? I mean it's sort of like a word</p> <p>25 salad exercise to me for some of these cases, and</p>
<p style="text-align: center;">Page 267</p> <p>1 and -- and then created the document that I guess</p> <p>2 that they put out there for -- for public comment</p> <p>3 of some sort.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q Okay. All right. Let's have marked the</p> <p>6 Health Canada report, the draft assessment. And</p> <p>7 we'll have that marked as Exhibit No. 14.</p> <p>8 (Diette Exhibit No. 14 was marked</p> <p>9 for identification.)</p> <p>10 (Counsel conferring.)</p> <p>11 BY MS. PARFITT:</p> <p>12 Q Do you have that in front of you?</p> <p>13 A I do.</p> <p>14 Q Okay. All right. Did the -- did Health</p> <p>15 Canada look at all three types of study designs?</p> <p>16 And by that, I mean case control, cohort, and</p> <p>17 meta-analyses.</p> <p>18 MS. BROWN: Objection to what you mean</p> <p>19 by "look at." Objection to the form.</p> <p>20 THE WITNESS: They've listed -- they've</p> <p>21 listed some of each.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q All right. So they consider for</p> <p>24 purposes of their analysis cohort studies,</p> <p>25 case-control studies and meta-analyses. Is that</p>	<p style="text-align: center;">Page 269</p> <p>1 so --</p> <p>2 BY MS. PARFITT:</p> <p>3 Q I'm sorry. A word what?</p> <p>4 A Word salad.</p> <p>5 Q Word salad.</p> <p>6 A Yeah. Not a technical term, but it's</p> <p>7 kind of a mess, right. So they've got -- like on</p> <p>8 page 19, they've got strength, and strength is a</p> <p>9 Bradford Hill criterion. They don't say whether</p> <p>10 the risk is, you know, weak or strong. They just</p> <p>11 have a list of 30 epidemiologic studies, and they</p> <p>12 say a couple things about some of them being</p> <p>13 statistically significant and -- and so forth.</p> <p>14 Q Okay.</p> <p>15 A And so that -- that isn't really a</p> <p>16 Bradford Hill type analysis about what the --</p> <p>17 whether the strength is high or low.</p> <p>18 And similarly, I would just say like,</p> <p>19 you know, for temporality, you know, what they've</p> <p>20 said here is crazy, right. So it's like --</p> <p>21 Q I'm sorry. What they've said here is</p> <p>22 what?</p> <p>23 A Crazy.</p> <p>24 Q Crazy.</p> <p>25 A Crazy.</p>

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<p>1 Q So let me just ask --</p> <p>2 MS. BROWN: Wait now, he is not done.</p> <p>3 You can follow up when he is done with --</p> <p>4 MS. PARFITT: Fair enough.</p> <p>5 MS. BROWN: Go ahead, Doctor.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Okay. Crazy.</p> <p>8 A Okay. Oh, well, they said like in all</p> <p>9 case-control studies reporting positive outcomes,</p> <p>10 the participants recalled the exposure to talc</p> <p>11 preceded the reported outcome. I mean that is so</p> <p>12 far afield from any realistic epidemiologic</p> <p>13 principle that to say that that somehow informs a</p> <p>14 Bradford Hill analysis -- I don't know, maybe</p> <p>15 "crazy" is the wrong word. Maybe absurd, maybe</p> <p>16 ridiculous. But every person in the world that</p> <p>17 has a particular event or outcome, everything</p> <p>18 about them preceded them. That isn't the same as</p> <p>19 temporality. Temporality in the epidemiologic</p> <p>20 world is demonstrating that time flowed from the</p> <p>21 time of the exposure.</p> <p>22 So, that's why I say like -- you know, I</p> <p>23 read the words here, I see consistency,</p> <p>24 specificity, and so forth, but I don't think their</p> <p>25 application to this is actually a legitimate</p>	<p>1 Did I read that correctly?</p> <p>2 MS. BROWN: You didn't, and actually you</p> <p>3 said "consistently" and the word is "consistent."</p> <p>4 MS. PARFITT: Thank you.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Did I read that correctly with that</p> <p>7 correction?</p> <p>8 A Yes.</p> <p>9 Q Okay. Do you see where the authors</p> <p>10 state that, "Further available data are indicative</p> <p>11 of a causal effect"? Do you see that?</p> <p>12 A I do.</p> <p>13 Q Do you agree with Health Canada that</p> <p>14 there was a causal effect drawn from the genital</p> <p>15 use of talcum powder products and ovarian cancer?</p> <p>16 MS. BROWN: Objection to the form,</p> <p>17 misstates the draft assessment, lacks foundation.</p> <p>18 THE WITNESS: I don't think so, but for</p> <p>19 the reason that -- being that this is -- this is</p> <p>20 at some level -- maybe it's a summary, I don't</p> <p>21 know -- of what they have from above. But their</p> <p>22 input information into what they're concluding</p> <p>23 here is not good. Right.</p> <p>24 I mean look -- look up a couple of</p> <p>25 sentences under "Biologic plausibility," and they</p>
<p style="text-align: center;">Page 271</p> <p>1 Bradford Hill analysis.</p> <p>2 Q All right. So it's absurd, it's crazy,</p> <p>3 and your opinion is that they did not do a proper</p> <p>4 Bradford Hill analysis. Is that your opinion?</p> <p>5 A It is.</p> <p>6 MR. LOCKE: Objection.</p> <p>7 MS. BROWN: Objection to the form.</p> <p>8 BY MS. PARFITT:</p> <p>9 Q Okay. All right. Let me direct -- did</p> <p>10 they -- let me direct your attention to page 21.</p> <p>11 And we'll put that up on the ELMO.</p> <p>12 All right. Do you see that? Okay?</p> <p>13 A I'm on page 21.</p> <p>14 Q Page 21, and it's the last paragraph,</p> <p>15 and I'll read it.</p> <p>16 "The most recent meta-analysis detailed</p> <p>17 above, Taher, et al., 2018, and consistent with</p> <p>18 the Hill criteria, suggests a small but</p> <p>19 consistently statistically significant positive</p> <p>20 association between ovarian cancer and perineal</p> <p>21 exposure to talc. Further available data are</p> <p>22 indicative of a causal effect. A clear point of</p> <p>23 departure could not be derived from the available</p> <p>24 literature. Consequently, hazard characterization</p> <p>25 is qualitative in nature."</p>	<p style="text-align: center;">Page 273</p> <p>1 say: "The presence of talc in the ovaries has</p> <p>2 been documented," and cite Heller. And they say,</p> <p>3 "The evidence of retrograde transport supports the</p> <p>4 biologic plausibility."</p> <p>5 That Heller study doesn't -- doesn't</p> <p>6 support that, right. So they're -- they're</p> <p>7 stringing things together here that don't</p> <p>8 literally support I think a conclusive statement</p> <p>9 here.</p> <p>10 And also I would just say too, that when</p> <p>11 they say that -- that with the last part of that</p> <p>12 part you read where it says that "The hazard</p> <p>13 characterization is qualitative in nature," well,</p> <p>14 "qualitative" doesn't tell you something about</p> <p>15 whether it's a strong association. I mean they --</p> <p>16 they've resisted using that -- that word here.</p> <p>17 BY MS. PARFITT:</p> <p>18 Q Okay. So my question for you,</p> <p>19 Dr. Diette, is do you disagree with the draft</p> <p>20 Health Canada assessment which found that there</p> <p>21 was a causal relationship between the use of</p> <p>22 genital talcum powder products and ovarian cancer?</p> <p>23 MS. BROWN: Objection. That's not what</p> <p>24 the draft assessment --</p> <p>25 MS. PARFITT: Counsel, objection, form.</p>

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<p>1 MS. BROWN: You're -- it misstates the 2 document intentionally attempting to mislead the 3 witness.</p> <p>4 MS. PARFITT: Objection.</p> <p>5 THE WITNESS: So I -- first of all, 6 so --</p> <p>7 BY MS. PARFITT:</p> <p>8 Q And, Doctor, let me just say something. 9 You can explain, but -- I have a question, and 10 then you can explain it if you wish.</p> <p>11 And my question is, do you disagree with 12 the draft Health Canada assessment which found or 13 concluded that there was a causal relationship 14 between the use of genital talcum powder product 15 and ovarian cancer?</p> <p>16 MR. LOCKE: Objection.</p> <p>17 MS. BROWN: Objection to the form.</p> <p>18 You can answer it truthfully and 19 accurately.</p> <p>20 THE WITNESS: I can't answer it.</p> <p>21 BY MS. PARFITT:</p> <p>22 Q You can't -- wait one second.</p> <p>23 A I cannot answer it.</p> <p>24 Q You can't answer the question as to 25 whether or not you agree that they concluded that</p>	<p>1 talcum powder products used in the genital area 2 and ovarian cancer? That's the question.</p> <p>3 MS. BROWN: Objection to the form of the 4 question, misstates the document --</p> <p>5 BY MS. PARFITT:</p> <p>6 Q You may answer.</p> <p>7 A Is there a specific sentence in there 8 that says that?</p> <p>9 Q It's the question that I've asked you.</p> <p>10 A Oh, so I can't answer it. I can answer 11 the --</p> <p>12 Q Is there a specific question --</p> <p>13 MS. BROWN: Wait, wait, let him finish.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q -- 20, 21, 28, and Roman numeral iii?</p> <p>16 MS. BROWN: What?</p> <p>17 THE WITNESS: If there's a specific 18 sentence that says that, and you want me to agree 19 or disagree, I can agree or disagree with that 20 sentence.</p> <p>21 What I can't agree with is an entire 22 document because I think it's not fair. I'm not 23 talking about just this one. I think, you know, 24 lawyers like to do this, right. They like to say, 25 Do you agree with a such-and-such paper. Well,</p>
<p style="text-align: center;">Page 275</p> <p>1 there was a causal relationship between talcum 2 powder products and ovarian cancer?</p> <p>3 A So that --</p> <p>4 MS. BROWN: Objection to the form, 5 misstates the document.</p> <p>6 Go ahead, Doctor.</p> <p>7 THE WITNESS: Yeah, your question has 8 morphed, right. And so I'm still stuck on the way 9 it came out when you first said it.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Then let's go -- we'll go with the one 12 the --</p> <p>13 MS. BROWN: Wait, let him finish.</p> <p>14 MS. PARFITT: No. Excuse me.</p> <p>15 MS. BROWN: Counsel, you've been doing 16 that all day. You cannot cut this witness off. 17 He needs to finish.</p> <p>18 MS. PARFITT: I'm not -- he asked for 19 what question I wanted to ask, so let me ask it 20 again.</p> <p>21 BY MS. PARFITT:</p> <p>22 Q Do you have -- is it -- do you -- strike 23 that.</p> <p>24 Do you agree or disagree with Health 25 Canada and their assessment of causality between</p>	<p style="text-align: center;">Page 277</p> <p>1 it's nonsense. You don't agree with the paper. 2 You agree with the finding or you agree with the 3 conclusion, but not with the entire thing.</p> <p>4 So here what I'm saying is, there's an 5 entire document here. There's some good stuff and 6 some bad stuff, and I can point out some of -- 7 some of each.</p> <p>8 But the point here is if there's a 9 specific statement that they made that says -- 10 about causation, I would just like to see that 11 particular statement and tell you whether I can 12 agree with it or not.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Well, look at page 28 -- or excuse me, 15 21, the page we were on.</p> <p>16 Do you have that in front of you?</p> <p>17 A I do.</p> <p>18 Q Okay. "Available data are 19 indicative" --</p> <p>20 MS. BROWN: Counsel, where are you?</p> <p>21 MS. PARFITT: It's the paragraph just 22 above "Exposure Assessment." It says the recent 23 -- we just read it.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q "The most recent meta-analysis detailed</p>

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<p>1 above, Taher, and consistent with the Hill 2 criteria, suggests a small but consistent 3 statistically significant positive association 4 between ovarian cancer and perineal exposure to 5 talc. Further available data are indicative of a 6 causal effect."</p> <p>7 MS. BROWN: What's the question?</p> <p>8 BY MS. PARFITT:</p> <p>9 Q Do you agree with the conclusions of 10 Health Canada?</p> <p>11 MS. BROWN: Objection to the form. This 12 is not the conclusion section.</p> <p>13 THE WITNESS: So, first of all, the -- 14 the first sentence that you read there talks about 15 a significant positive association, which isn't 16 the same as cause. Right. And then they say, 17 "Further available data are indicative of..."</p> <p>18 I -- I think if you're trying to say 19 that something causes something, you come out and 20 you say it. You don't say, "Further data are 21 indicative of it." So I -- I don't think this 22 statement says talcum powder causes ovarian 23 cancer.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Okay. So your quarrel with Health</p>	<p>1 A That sentence is there. 2 Q All right. Okay. 3 MS. BROWN: Counsel, if you're moving to 4 another area, would -- 5 MS. PARFITT: I am. 6 MS. BROWN: Would this be a good time 7 for a break? 8 MS. PARFITT: Yeah. I'm going to move 9 on and change gears. 10 THE VIDEOGRAPHER: The time is 1:52 11 p.m., and we are off the record. 12 (Recess.) 13 THE VIDEOGRAPHER: The time is 14 2:04 p.m., and we're back on the record. 15 BY MS. PARFITT: 16 Q Dr. Diette, you mentioned before the 17 break the Heller article, and so I don't misquote 18 you, what was your position with regard to Heller 19 and what it stood for? 20 A I think if we're talking about the -- 21 the right one, it's the one where the ovaries were 22 removed from, I think, 24 women, and that 12 -- 12 23 had said that they were talcum powder users and 12 24 not, but they found a -- they found a similar 25 amount of talc in ovaries regardless of whether</p>
<p style="text-align: center;">Page 279</p> <p>1 Canada is the fact that they didn't say it, Talcum 2 powder products used in the genital area cause 3 ovarian cancer.</p> <p>4 A Well --</p> <p>5 Q You quarrel with their language. Is 6 that what you're saying?</p> <p>7 A Well, I quarrel --</p> <p>8 MS. BROWN: Objection. Misstates his 9 testimony.</p> <p>10 THE WITNESS: I quarrel a little with 11 you, I think -- I'm sorry.</p> <p>12 THE REPORTER: I'm sorry, your --</p> <p>13 MS. BROWN: I just want to object to the 14 question as misstating your testimony.</p> <p>15 THE WITNESS: Because I think your 16 initial question before you read it literally was 17 about whether or not they said that it causes it, 18 and I don't think that it said that.</p> <p>19 And -- and I think otherwise that there 20 are some flaws in the -- in the information that 21 they've used up above to reach this -- I guess 22 it's a conclusion. I don't know if it is or not.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Okay. Does it say, "Further available 25 data are indicative of a causal effect"?</p>	<p style="text-align: center;">Page 281</p> <p>1 they were users or not. 2 Q Okay. Is -- is it your opinion that 3 talc cannot migrate to the ovaries? 4 A I don't know that it can. I -- if it's 5 found there, I'm not sure how it got there. 6 Q Is it your opinion that asbestos can 7 migrate to the ovaries? 8 MS. BROWN: Objection to the form. 9 THE WITNESS: I've seen -- I don't think 10 I've seen anything that shows for sure that it 11 can. 12 BY MS. PARFITT: 13 Q Okay. If asbestos was found in the 14 ovaries, how would it get there? 15 MS. BROWN: Objection to the form. 16 THE WITNESS: So I don't know. I mean, 17 it's -- I don't know of a worked-out mechanism 18 that shows how it got there. 19 (Diette Exhibit No. 15 was marked 20 for identification.) 21 BY MS. PARFITT: 22 Q Let me show you what's been marked as 23 Heller Exhibit No. 15. And it is a 1996 article 24 entitled "Asbestos Exposure and Ovarian Fiber 25 Burden."</p>

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1 (Counsel conferring.)	1 A And it's about the middle of the
2 BY MS. PARFITT:	2 paragraph, and it says it is -- it says -- right
3 Q Do you have that in front of you?	3 above it, it says: "None of the exposed subjects
4 A I do.	4 in the study was directly occupationally exposed
5 Q All right. Now, this was a different	5 but all were passively exposed to household
6 Heller article than the one you were referring to?	6 contact. It is unclear why so many of the women
7 A Thank you, yes.	7 giving no exposure history did have detectable
8 Q Okay. All right. Now, let me direct	8 asbestos in their ovaries, although it is known
9 your attention to the Abstract section, the last	9 that there is a background level of asbestos in
10 paragraph.	10 the lung tissue of non-exposed individuals."
11 Okay. And it states: "This study	11 So I -- I don't know. I just don't --
12 demonstrates that asbestos can reach the ovary.	12 that this -- this cements the idea that -- that we
13 Although the number of subjects is small, asbestos	13 know something about how asbestos, you know, can
14 appears to be present in ovarian tissue more	14 get to the ovaries.
15 frequently and in higher amounts in women with a	15 Q All right. Let me direct your attention
16 documentable exposure history."	16 to the bottom of 438, top of 439.
17 Did I read that correctly?	17 At the bottom of 438, it says "There
18 A Yes.	18 is," and then it goes on to the top of 439:
19 Q All right. Do you agree with that	19 "There is evidence of transport of particulate
20 statement?	20 matter into the female perineum by the
21 MS. BROWN: Objection to the form.	21 transvaginal route."
22 THE WITNESS: Give me one sec, because	22 A I apologize, I -- I'm not with you, and
23 I -- it's been a while since I looked at this.	23 I just --
24 MS. BROWN: Take your time, Doctor.	24 Q Oh, sure.
25 THE WITNESS: (Peruses document.) Yeah,	25 A I'm just trying to --
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1 again, like -- so not entirely.	1 Q It's right here, upper corner, 439.
2 BY MS. PARFITT:	2 A Got you.
3 Q What part -- what part --	3 Q Okay?
4 MS. BROWN: Let him finish.	4 A Yep.
5 BY MS. PARFITT:	5 Q All right, again. "There is evidence of
6 Q What part do you agree with?	6 transport of particulate matter into the female
7 A Well, the -- I think that it's -- it's	7 perineum by the transvaginal route in both human
8 not -- well, so the study demonstrates that	8 and animal studies." It cites Egli and Newton,
9 asbestos can reach the ovary. I guess if it's	9 1961. It cites Henderson, 1986; Venter -- and I'm
10 definitely there, then -- and it got there somehow	10 sure I'll destroy this name -- Iturralde, 1979;
11 and it wasn't through contamination, you know, of	11 Whittemore, 1988. "Suggested that vaginal
12 the procedure that -- that led to it, you could --	12 exposure to particulate matter such as asbestos
13 you know, you could infer that there's some way	13 and talc was a potential risk factor for
14 that it got there.	14 intraperitoneal ovarian exposure. Her conclusion
15 I think it doesn't tell us anything	15 was based on finding that in talc exposed women, a
16 about how to make sense of that. And what I was	16 previous history of hysterectomy or tubal
17 looking for that I remember is that they said that	17 ligation, which blocks perineum access, was
18 it's unclear why so many women giving no exposure	18 protective against ovarian cancer."
19 history did have detectable asbestos in their	19 It goes on to say: "Talc has been
20 ovaries.	20 implicated as a possible etiological agent in
21 Q Where do you see that?	21 ovarian cancer," citing Harlow '89 and '92, "and
22 A I'm sorry. I'm on 439.	22 is related to the asbestos problem in several
23 Q Thank you.	23 ways. Aside from the chemical similarities
24 A And in the Conclusion paragraph.	24 between the two, many cosmetic talcs contained
25 Q Mm-hmm. Yes.	25 significant amounts of asbestos, particularly

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<p>1 prior to '70 -- 1976, Cramer, 1982. The 2 significance of this detection of talc in the 3 majority of exposed women and in all women giving 4 no exposure history is unclear and further studies 5 are underway to further elucidate this question."</p> <p>6 Did I read that correctly?</p> <p>7 A Yes.</p> <p>8 Q Question: Are there chemical 9 similarities between cosmetic talcs and asbestos?</p> <p>10 MS. BROWN: Objection to the form.</p> <p>11 THE WITNESS: So some of the same -- 12 some of the same features chemically are present 13 in both.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q All right. Set that aside for a minute. 16 We may come back to that.</p> <p>17 Dr. Diette, for purposes of your 18 opinions in this case, you have stated that the 19 cohort studies lack statistical significance, and 20 only a subset of the case-control studies are 21 statistically significant. Therefore, there is a 22 disparity and inconsistency between cohorts and 23 case control.</p> <p>24 Have I summed it up pretty well?</p> <p>25 A That -- that's one of the -- one of the</p>	<p>1 If you know.</p> <p>2 THE WITNESS: Can I assume or --</p> <p>3 MS. BROWN: No, if you don't know, don't 4 answer. Then you have no basis to answer the 5 question.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q My question is, do you know what Ken 8 Rothman's area of expertise is?</p> <p>9 MS. BROWN: Objection.</p> <p>10 THE WITNESS: Well, he's -- he's made a 11 career out of -- out of case-control studies and 12 articulating, you know, features of the design and 13 so forth.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q All right. Is he an epidemiologist?</p> <p>16 A Well, that's what I was trying to 17 remember. Like, I would only be guessing. Like, 18 I assume for him to be in that role, he would be, 19 but there are people that come to epidemiology 20 from other -- you know, other backgrounds, and so 21 I just don't know his credentials.</p> <p>22 Q Okay. What about Sander Greenland, do 23 you know who he is?</p> <p>24 A I know the name, but I don't know him.</p> <p>25 Q Okay. Have you ever -- do you know what</p>
<p style="text-align: center;">Page 287</p> <p>1 bits of evidence of inconsistency.</p> <p>2 Q Okay. Would you agree that to disregard 3 study results based upon whether they are 4 statistically significant or not statistically 5 significant would be a mistake?</p> <p>6 MS. BROWN: Objection to the form.</p> <p>7 Counsel, is there something you're reading from 8 that --</p> <p>9 MS. PARFITT: No. Actually, my notes, 10 and he doesn't get those. Thank you.</p> <p>11 THE WITNESS: Okay. So "disregard" is 12 pretty severe. Right. So I don't think that 13 somebody should disregard any study, unless it's, 14 you know, fraudulent or, you know, created out of 15 nowhere. So I think that people should regard the 16 findings and interpret them appropriately.</p> <p>17 So I think that would be an overly 18 strong thing to do, which would be to disregard it 19 simply because it's statistically insignificant.</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Okay. Do you know who Ken Rothman is?</p> <p>22 A I -- I know of him. I don't know him 23 personally.</p> <p>24 Q Okay. What does he do for a living?</p> <p>25 MS. BROWN: Objection to the form.</p>	<p style="text-align: center;">Page 289</p> <p>1 kind of scientist Sander Greenland is?</p> <p>2 MS. BROWN: Objection. Form.</p> <p>3 THE WITNESS: I do not.</p> <p>4 MS. BROWN: Foundation.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Okay. All right. Do you know Timothy 7 Lash?</p> <p>8 MS. BROWN: Objection. Foundation.</p> <p>9 THE WITNESS: I don't know the name.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Okay. Do you know what kind of 12 scientist Tim -- Timothy Lash is?</p> <p>13 MS. BROWN: Same objection.</p> <p>14 THE WITNESS: It would be hard to know 15 that --</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Okay.</p> <p>18 A -- without knowing him.</p> <p>19 Q Okay. Let me show you what we will have 20 marked as Exhibit No. -- 61? 16.</p> <p>21 MR. TISI: We're not that high. 22 (Diette Exhibit No. 16 was marked 23 for identification.)</p> <p>24 BY MS. PARFITT:</p> <p>25 Q And I will -- and I will represent,</p>

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<p>1 Dr. Diette, that this is Chapter 2 out of the 2 Third Edition, Modern Epidemiology. 3 Do you see that? 4 A I do. 5 Q Okay. And if you look at the front of 6 it, it has three authors. 7 Do you see that? 8 A I do. 9 Q Okay. The first one is Ken Rothman. Do 10 you see that? 11 A Correct. 12 Q The second one is Sander Greenland. 13 A Correct. 14 Q And the third author is Tim Lash. Do 15 you see that? 16 A I do. 17 Q And they are -- the book that they have 18 authored is called Modern Epidemiology, Third 19 Edition. Do you see that? 20 A I do. 21 Q Okay. Let me -- let me direct your 22 attention to page 27. 23 MS. BROWN: Counsel, are you going to 24 lay a foundation for the use of this document? 25 MS. PARFITT: I can just ask a question.</p>	<p>1 MS. BROWN: I have a continuing 2 foundation. 3 MS. PARFITT: That's fine, Counsel. 4 MS. BROWN: -- objection to this 5 exhibit, for which no foundation has been laid. 6 BY MS. PARFITT: 7 Q All right. Again, I'm referring to the 8 category consistency which I represent that is in 9 Chapter 2 of the Rothman book, and we can just go 10 ahead and circle the paragraph that starts: "One 11 mistake in implementing the consistency criterion 12 is so common that it deserves special mention. It 13 is sometimes claimed that a literature or set of 14 results is inconsistent simply because some 15 results are statistically significant, and some 16 are not." 17 Did I read that correctly? 18 A You did. 19 Q "This sort of evaluation is completely 20 fallacious, even if one accepts the use of 21 significant testing methods." 22 Did I read that correctly? 23 A You did. 24 Q All right. Do you agree with that 25 statement?</p>
<p style="text-align: center;">Page 291</p> <p>1 I can do that. 2 BY MS. PARFITT: 3 Q Let me ask a question. 4 "To claim that literature, scientific 5 literature, or a set of results reported in 6 scientific literature is inconsistent simply 7 because some results are statistically 8 significant, and some are not, would be completely 9 fallacious, even if one accepts the use of 10 significant testing methods." 11 Do you agree with that statement? 12 MR. LOCKE: Objection. 13 MS. BROWN: Objection. Form, 14 foundation. 15 THE WITNESS: Is that a hybrid of a 16 couple of things? Because I thought I was reading 17 with you, and then I might have left off. 18 BY MS. PARFITT: 19 Q Well, why don't we do this. We'll put 20 it back on the ELMO, and I'll represent that it is 21 a -- 22 A Yeah, I don't doubt you. I just -- 23 Q Sure, no worries. That's fine. 24 A It goes on to a different sentence. 25 Q That's fine.</p>	<p style="text-align: center;">Page 293</p> <p>1 MR. LOCKE: Objection. 2 THE WITNESS: So wait a minute, I just 3 want to -- so there's a couple of statements 4 there. I think the part that makes it agreeable 5 is to say that -- that if it's claimed that 6 results are -- and I'm paraphrasing -- 7 BY MS. PARFITT: 8 Q Sure. 9 A -- but that the results are inconsistent 10 simply, and the word "simply" to me is really 11 important here because it suggests that somebody 12 would be not looking at the entire universe of 13 evidence that they have available. 14 So I think if you just took a quick look 15 at studies and said some were significant and some 16 weren't and left it at that, you know, it's a 17 pretty strong statement, but I think -- I think 18 that would be a mistake to only do that. 19 Q All right. Now, you're not a 20 statistician, correct? 21 A I'm not a statistician. 22 Q Okay. And you're not a biostatistician. 23 A I'm not a biostatistician. 24 Q Okay. Do you know who Daniel Ford is? 25 A I do.</p>

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<p>1 Q Okay. Who is Daniel Ford? 2 A If it's the one that -- 3 Q Daniel E. Ford. 4 A I don't know his middle name, but 5 there's a Dan Ford at our -- at our place. 6 Q Okay. Is the Dan Ford you know vice 7 dean for clinical investigation, Johns Hopkins 8 School of Medicine? 9 A Yes. 10 Q Okay. Is he a friend of yours? 11 A We're friendly. I mean, we don't hang 12 out, though. 13 Q Now, he is with the Institute for 14 Clinical and Translational Research; is that 15 correct? 16 A He has been. I'm just trying to think 17 if that still exists. Because I know there was a 18 funding issue, so -- but he -- he certainly was in 19 that role, and he may still be. 20 Q He may what? 21 A He may still be. I just -- I just -- I 22 thought I had heard that the ICTRs were going to 23 be not funded anymore. 24 Q Okay. 25 A Maybe it's true, maybe not; but I'm just</p>	<p>1 Q Do you know about that? 2 A I'm aware of that. 3 Q Okay. Now, are you -- did you read 4 Dr. Bowman's deposition? 5 A I did. 6 Q Okay. Did you see that in Dr. Bowman's 7 deposition? 8 A I saw -- I'm just trying to remember. I 9 saw the Nature article, I think that is more 10 recently published than -- you said 2016? 11 Q Originally, yes. 12 A Yeah, but I can't remember if 2016 was 13 in her deposition, but for sure the more recent 14 one. 15 Q The one in 2019? 16 A Exactly right, yeah. 17 Q All right. All right. Let me show you 18 then what's been marked as -- or will be marked as 19 17. And it is the March 2019 -- 20 (Counsel conferring.) 21 BY MS. PARFITT: 22 Q Okay. Let me show you what we will have 23 marked as 17, a study that appeared in The 24 American Statistician in 2019. It's Volume 73, 25 and it's called "Moving to a World Beyond P <</p>
<p style="text-align: center;">Page 295</p> <p>1 saying for sure he was part of that. 2 Q Mm-hmm. Okay. Sure. Okay. 3 All right. Are you a member -- and I'm 4 assuming you're not because you're not a 5 statistician, but I should assume nothing. 6 Are you a member of the American 7 Statistical Association? 8 A I am not. 9 Q Okay. Do you know who they are? 10 A Not -- not really. I mean, it -- it 11 sounds like the name gives them away, but I 12 don't -- I don't know, you know, who they are as 13 an entity otherwise. 14 Q That's fair. Okay. 15 Are you aware that due to a widespread 16 misuse by scientists and researchers regarding 17 statistical significance and p-values, that the 18 American Statistical Association issued a 19 statement back in 2016 warning the scientific 20 community of this misuse and urging them to cease 21 and desist with the p-value? 22 MR. LOCKE: Objection. 23 MS. BROWN: Objection to the form, lacks 24 foundation, misrepresents the facts. 25 BY MS. PARFITT:</p>	<p style="text-align: center;">Page 297</p> <p>1 0.05." 2 Do you see that? 3 A Actually, I was just sort of flipping 4 through to see what I'm looking at. Oh, so the 5 title, yes. 6 Q Okay. Is this a document you were 7 referring to? 8 A No. 9 Q No? 10 A I was referring to the one in Nature 11 that I think reports about this. 12 Q Yes. Okay. Let's go ahead and get that 13 marked, and we'll talk about all three. 14 (Diette Exhibit No. 17 was marked 15 for identification.) 16 MS. PARFITT: Let's have marked as 17 Exhibit No. 18. 18 (Diette Exhibit No. 18 was marked 19 for identification.) 20 BY MS. PARFITT: 21 Q And I will represent that 18 is a Sander 22 Greenland article that appeared in Nature on 23 March 2019. 24 Okay. Is that the article you were 25 referring to?</p>

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<p>1 A Yes.</p> <p>2 Q Okay. Have you had an opportunity to</p> <p>3 read Exhibit No. 18?</p> <p>4 A I have.</p> <p>5 Q Okay. Exhibit 17, which is the</p> <p>6 Wasserstein article, have you had an opportunity</p> <p>7 to read it prior to today?</p> <p>8 A This -- this one, no.</p> <p>9 Q Okay. All right. Let's first take a</p> <p>10 moment and discuss what's been marked as 18.</p> <p>11 Excuse me. No, 18. 18.</p> <p>12 Are you aware that due to the American</p> <p>13 Statistical Society's concern of the misuse of</p> <p>14 statistical significance and p-value, that they</p> <p>15 literally used their March 2019 research paper and</p> <p>16 devoted attention to this issue and attached</p> <p>17 almost 40 papers on statistical inference? Are</p> <p>18 you aware of that?</p> <p>19 MR. LOCKE: Objection.</p> <p>20 MS. BROWN: Objection to the form,</p> <p>21 misstates the facts. Are you referring to</p> <p>22 Exhibit 17?</p> <p>23 MS. PARFITT: No. 17. 17.</p> <p>24 MS. BROWN: Yes, 17.</p> <p>25 MS. PARFITT: No, I'm not referring to</p>	<p>1 MS. BROWN: -- before you ask him any</p> <p>2 questions about it.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q I just have a couple of questions about</p> <p>5 it.</p> <p>6 MS. BROWN: Take as long as you need.</p> <p>7 THE WITNESS: (Peruses document.)</p> <p>8 BY MS. PARFITT:</p> <p>9 Q And I just have a couple of questions</p> <p>10 about it.</p> <p>11 A Sure.</p> <p>12 MS. BROWN: He's never seen it, so he</p> <p>13 needs --</p> <p>14 MS. PARFITT: That's fine.</p> <p>15 MS. BROWN: -- as long as he needs.</p> <p>16 MS. PARFITT: He can take -- yeah.</p> <p>17 THE WITNESS: Well, I won't be able to</p> <p>18 read it in --</p> <p>19 BY MS. PARFITT:</p> <p>20 Q Okay. Let me just --</p> <p>21 A -- in realtime today.</p> <p>22 Q -- ask you a couple of questions. I'm</p> <p>23 not expecting you to digest it.</p> <p>24 All right. The first paragraph, it</p> <p>25 says -- do you have it up there?</p>
<p style="text-align: center;">Page 299</p> <p>1 that at all. I'm just -- I'm asking a question.</p> <p>2 MS. BROWN: Objection. Lacks</p> <p>3 foundation, misstates the facts.</p> <p>4 THE WITNESS: I saw that there was a --</p> <p>5 a journal issue that had many articles. I</p> <p>6 didn't -- I don't know what the count was, but</p> <p>7 there -- it's probably the same thing we're</p> <p>8 talking about, but I'm not sure.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Okay. Did you have a chance to read</p> <p>11 those 40 or so articles?</p> <p>12 MS. BROWN: Objection to the form.</p> <p>13 THE WITNESS: I -- I wish I had that</p> <p>14 kind of time, but --</p> <p>15 BY MS. PARFITT:</p> <p>16 Q You and me both.</p> <p>17 A Yeah.</p> <p>18 Q Okay. All right. Let's stay a few</p> <p>19 minutes on 17, and we'll put it up on the ELMO.</p> <p>20 And it starts --</p> <p>21 MS. BROWN: Counsel, he's never seen 17</p> <p>22 before, so he's going to need a minute to</p> <p>23 familiarize himself with it --</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Take a minute to familiarize yourself.</p>	<p style="text-align: center;">Page 301</p> <p>1 "Some of you exploring this special</p> <p>2 issue of The American Statistician might be</p> <p>3 wondering if it's a scolding from the pedantic</p> <p>4 statisticians lecturing you about what not to do</p> <p>5 with p-values, without offering any real ideas of</p> <p>6 what to do about the very hard problem separating</p> <p>7 signal from noise in data and making decisions</p> <p>8 under uncertainty. Fear not, in this issue,</p> <p>9 thanks to 43 innovative and thought-provoking</p> <p>10 papers from forward-looking statisticians, help is</p> <p>11 on the way."</p> <p>12 Do you see that?</p> <p>13 A I do.</p> <p>14 Q Okay. Did I read that correctly?</p> <p>15 A You did.</p> <p>16 Q And is that the 43 papers that you were</p> <p>17 speaking of that you didn't have time to read?</p> <p>18 MS. BROWN: Objection to the form, lacks</p> <p>19 foundation.</p> <p>20 THE WITNESS: I -- I think so. I mean,</p> <p>21 this sounds familiar. I think it's what I was</p> <p>22 looking at, but I'm not -- not a hundred percent</p> <p>23 sure.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Okay. If you'd look at right under</p>

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<p>1 "Don't is Not Enough." Do you see that?</p> <p>2 A Yes.</p> <p>3 Q All right. The first sentence says:</p> <p>4 "There's not much we can say here about the perils</p> <p>5 of p-values and significance testing that hasn't</p> <p>6 already -- that hasn't been said already for</p> <p>7 decades."</p> <p>8 Did I read that correctly?</p> <p>9 A Yes.</p> <p>10 Q And then it goes down to the first one:</p> <p>11 "Don't base your conclusions solely on whether an</p> <p>12 association or effect was found to be</p> <p>13 statistically significant. The p-value passed</p> <p>14 some arbitrary threshold such as $p < 0.05$."</p> <p>15 Did I read that correctly?</p> <p>16 A Yes.</p> <p>17 Q Do you agree with that statement?</p> <p>18 MR. LOCKE: Objection.</p> <p>19 THE WITNESS: So there's a lot to this,</p> <p>20 right. I mean because, I mean, the lead in to it,</p> <p>21 it says -- it says that there's not much to say</p> <p>22 here, you know --</p> <p>23 BY MS. PARFITT:</p> <p>24 Q That hasn't been said.</p> <p>25 A -- hasn't been said for decades.</p>	<p>1 statistical significance or lack thereof."</p> <p>2 Do you agree with that statement?</p> <p>3 MS. BROWN: Objection to the form.</p> <p>4 And, Doctor, if you need to read the</p> <p>5 whole article to answer these questions --</p> <p>6 MS. PARFITT: Counsel, don't coach the</p> <p>7 witness.</p> <p>8 MS. BROWN: -- you should do that.</p> <p>9 Yeah, but you are knowingly --</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Go ahead, Doctor.</p> <p>12 MS. BROWN: -- putting a document in</p> <p>13 front of him that he's never seen, so we're not</p> <p>14 going to sit here --</p> <p>15 BY MS. PARFITT:</p> <p>16 Q I'm asking you a question, Dr. Diette --</p> <p>17 MS. BROWN: -- and play cherry-</p> <p>18 picking statements to get --</p> <p>19 BY MS. PARFITT:</p> <p>20 Q -- do you agree that one should not</p> <p>21 conclude anything about scientific or practical</p> <p>22 importance based on statistical significance or</p> <p>23 lack thereof? Do you agree with that?</p> <p>24 MR. LOCKE: Objection.</p> <p>25 MS. BROWN: Same objection.</p>
<p style="text-align: center;">Page 303</p> <p>1 MS. BROWN: Wait, wait, let him finish.</p> <p>2 THE WITNESS: And -- and that's --</p> <p>3 that's pretty -- well, I can't say it's true</p> <p>4 because I haven't read this, so I don't know</p> <p>5 what's in here, but the debate about p-values and</p> <p>6 statistical significance isn't brand new. I mean,</p> <p>7 I've been talking about it with colleagues for</p> <p>8 decades, and I'm sure there were people decades</p> <p>9 before me. So that -- that part rings true.</p> <p>10 And I think -- you know, I don't know</p> <p>11 when they're talking about conclusions. That's</p> <p>12 a -- that's a pretty broad topic, but I think the</p> <p>13 word "solely" is very helpful there, that we</p> <p>14 shouldn't be making decisions solely on whether</p> <p>15 something is statistically significant. And</p> <p>16 there's more to it than that.</p> <p>17 BY MS. PARFITT:</p> <p>18 Q Okay.</p> <p>19 A But that's a -- that's a super broad</p> <p>20 statement, and I don't know, you know, in every</p> <p>21 circumstance whether that would be agreeable or</p> <p>22 not.</p> <p>23 Q Okay. Look at the last bullet there.</p> <p>24 It states: "Don't conclude anything about</p> <p>25 scientific or practical importance based on</p>	<p style="text-align: center;">Page 305</p> <p>1 THE WITNESS: So, anyway, I think by</p> <p>2 saying "don't conclude anything," I think makes</p> <p>3 this not a very agreeable statement for me.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q Okay. All right. Let's turn to what</p> <p>6 you did read, and that's Exhibit 18.</p> <p>7 Do you have that, Doctor?</p> <p>8 A I do.</p> <p>9 Q Okay. And this is an article that</p> <p>10 appeared in Nature back in March of 2019, correct?</p> <p>11 A That's right.</p> <p>12 Q Okay. And you did have a chance to read</p> <p>13 this; is that correct?</p> <p>14 A I did.</p> <p>15 Q Okay. And under the section "Pervasive</p> <p>16 Problem," do you see that?</p> <p>17 A Yes.</p> <p>18 Q Okay. It states: "Let's be clear about</p> <p>19 what must stop. We should never conclude there is</p> <p>20 no difference or no association just because the</p> <p>21 p-value is larger than the threshold, such as</p> <p>22 0.05, or equivalently because a confidence</p> <p>23 interval includes zero. Neither should we</p> <p>24 conclude that two studies conflict because one had</p> <p>25 a statistically significant result and the other</p>

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<p>1 did not. These errors waste research efforts and 2 misinform policy decisions."</p> <p>3 Did I read that correctly?</p> <p>4 A You did.</p> <p>5 Q Do you agree with that?</p> <p>6 MS. BROWN: Objection to the form.</p> <p>7 MR. LOCKE: Objection.</p> <p>8 THE WITNESS: To me it's overly broad, 9 and I think that -- I think that if we go through 10 and we find a sentence or two in here that are 11 agreeable or not, there's a -- there's a much, 12 much bigger proposition here about what's going 13 on, and I don't think it boils down to any one of 14 these sentences.</p> <p>15 And I think this looks like a passionate 16 opinion piece, right. That's calling it an 17 article, but it's a commentary. And, you know, 18 these guys might believe that, but I don't -- I 19 don't think it's a mainstream view, and it's not 20 my view, you know, without any qualifications 21 that -- that statement is correct either.</p> <p>22 Q Okay. Are you aware that over 800 23 statisticians and scientists signed on to this 24 document to push the concept of abandoning 25 statistical significance?</p>	<p>1 is that correct?</p> <p>2 A I didn't.</p> <p>3 MS. BROWN: Asked and answered.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q All right. Now, let me have marked now 6 as Exhibit No. 19.</p> <p>7 (Diette Exhibit No. 19 was marked 8 for identification.)</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Do you have that, Doctor?</p> <p>11 Take a look at that, if you will.</p> <p>12 A (Peruses document.) So is this meant to 13 be a couple of things?</p> <p>14 Q It's two things. I will represent to 15 you that the face sheet states "Johns Hopkins 16 Institute for Clinical and Translational 17 Research." The American Statistician special 18 issue, "Moving to a World Beyond $P < 0.05$." It's 19 dated March 25, 2019. It has The American 20 Statistician on the side.</p> <p>21 A What are we -- I'm confused, though. 22 This is -- this is Exhibit 17 with something 23 attached to it or --</p> <p>24 Q You know, that's exactly it. And if you 25 look at Exhibit 19 --</p>
<p style="text-align: center;">Page 307</p> <p>1 MS. BROWN: Objection to the form.</p> <p>2 MR. LOCKE: Objection.</p> <p>3 THE WITNESS: I saw that.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q Okay. You weren't one of those, were 6 you?</p> <p>7 MS. BROWN: Objection to the form.</p> <p>8 THE WITNESS: I'm not a statistician.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Okay. Well, but you use statistics in 11 your practice?</p> <p>12 A I do.</p> <p>13 Q Okay. Did anyone say you had to be a 14 statistician to sign on to that proposition?</p> <p>15 A Well, I -- I thought I heard you say 16 statisticians. Maybe I -- I might have misheard. 17 I thought you said 800 statisticians.</p> <p>18 Q I said there are about 800 statisticians 19 and other scientists that --</p> <p>20 A Oh, and other scientists.</p> <p>21 Q -- yeah, that signed on to this.</p> <p>22 A No, I didn't hear right. So I just --</p> <p>23 so I don't know what the criteria were for who 24 could sign or not sign.</p> <p>25 Q Okay. You didn't sign on to it, though;</p>	<p style="text-align: center;">Page 309</p> <p>1 A Mm-hmm.</p> <p>2 Q -- it is moving -- it states "Moving to 3 the World Beyond P" -- it's a special issue of The 4 American Statistician. The lead article calls for 5 abandoning the use of status -- statistically 6 significant, and offers much, not just one thing, 7 to replace it, written by Ron Wasserstein, Allen 8 Shirm, and Nicole Lazar. The coeditors of this 9 special issue summarize the content of the issue's 10 43 articles.</p> <p>11 These articles -- and put this up 12 there -- discuss the use of p-values and 13 statistical significance that Johns Hopkins' 14 researchers may find beneficial, and it attaches 15 the full article, which is what's been marked as 16 Exhibit No. 17.</p> <p>17 Do you see that?</p> <p>18 A I do.</p> <p>19 Q Okay. Did anyone share with you at 20 Johns Hopkins that their Clinical and 21 Translational Research group was disseminating the 22 article by Wasserstein, "Moving to a World Beyond 23 $P < 0.05$," and urging individuals not only to 24 abandon the use of statistical significance, but 25 to discuss the use of p-values and statistical</p>

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<p>1 significance with the researchers at Johns 2 Hopkins?</p> <p>3 And that's a mouthful. So let me make 4 it really clear.</p> <p>5 MS. BROWN: Let me object --</p> <p>6 MS. PARFITT: I move to strike the 7 question.</p> <p>8 MS. BROWN: You're going to strike it?</p> <p>9 MS. PARFITT: Yeah, let me strike it.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q Were you aware, Dr. Diette, that the 12 division of Clinical and Translational Research 13 over at Hopkins had distributed to its scientists 14 this group of 43 articles, including the 15 Wassertine -- Wasserstein, for purposes of 16 educating them with regard to this concern over 17 the misuse of statistical significance?</p> <p>18 MS. BROWN: I object to a complete 19 misrepresentation of the exhibit and to 20 foundation.</p> <p>21 THE WITNESS: So I mean, there's a lot 22 of things, right. I'll try to answer as many as I 23 can.</p> <p>24 So one is that I probably got something 25 because I'm -- I've been part of the ICTR, and I</p>	<p>1 read all 800, but I looked to see if there were 2 people from Hopkins in particular that signed it, 3 and I knew one of the two.</p> <p>4 Q Okay. Let me show you what we'll have 5 marked as Exhibit No. 20. And I will represent to 6 you that it is a list of the 800 signatories that 7 joined together to support this movement to 8 abandon p-value in statistical significance. 9 (Diette Exhibit No. 20 was marked 10 for identification.)</p> <p>11 MS. PARFITT: Again, Counsel, I 12 apologize. Apparently, we only have one copy of 13 this document.</p> <p>14 MS. BROWN: So is it the blog soliciting 15 the signatures, or is it just the list?</p> <p>16 MS. PARFITT: It is the list of 17 signatories.</p> <p>18 MS. BROWN: Okay, that's fine.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q Do you see that?</p> <p>21 A I do.</p> <p>22 Q Okay. Do you know an Elizabeth Ogburn?</p> <p>23 A I don't. I saw her name on here, but 24 I -- I don't know her.</p> <p>25 Q All right. Do you know Daniel</p>
<p style="text-align: center;">Page 311</p> <p>1 use the resources, I'm one of the people who 2 helped to write the grant to get it funded, and 3 so -- like I get a zillion things that fly by.</p> <p>4 I don't know if I saw this or not, but I 5 probably wouldn't have clicked on if it came 6 through like an e-mail because I had already seen 7 it, like, as part of this -- as part of the Bowman 8 deposition.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Mm-hmm.</p> <p>11 A But other than that, I mean, I think 12 it's -- I think they're smart to do it. They 13 should always put stuff out there for people to 14 read. It doesn't mean that we're going to get rid 15 of p of 0.05. It doesn't mean we're going to get 16 rid of statistical significance. They're just 17 saying it's an interesting read.</p> <p>18 Q Do you know any of the signatories to 19 this particular document?</p> <p>20 A I found one. One that I know 21 personally, and I'm just trying to remember if 22 there was anybody else that I saw.</p> <p>23 Q Well, let me show you what we'll have 24 marked as Exhibit No. 20.</p> <p>25 A Yeah, so let me just say, so I didn't</p>	<p style="text-align: center;">Page 313</p> <p>1 Sharfenstein (phonetic)?</p> <p>2 A Sharfstein, and I know him. Yeah.</p> <p>3 Q Okay. Is that -- do you know anyone 4 else that might appear on that list?</p> <p>5 A I don't know. I didn't read it. I 6 just -- I literally just did a word search for 7 "Hopkins," and I came up with like one person 8 whose name is Hopkins who works in England, and 9 another one, something Hopkins Institute, which is 10 not, and then two from Johns Hopkins.</p> <p>11 Q Okay. When did you do this research?</p> <p>12 A In the last week. I mean, after -- 13 after reading the Bowman deposition.</p> <p>14 Q All right. So you read the Bowman 15 deposition, and then you -- what caused you then 16 to -- to go back and look at that or for that?</p> <p>17 A Well, because it sounds like an 18 interesting topic, and, you know, who knows, maybe 19 one day it either will or won't change, but it's 20 an interesting thing to read about. And so I 21 wanted to just sort of see what -- what you guys 22 were driving at. And then since I saw that there 23 were 800 signatories, I just figured I would see 24 if there was anybody at Hopkins that was part of 25 it or not.</p>

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<p>1 Q Mm-hmm. And you found a couple of 2 people from Hopkins?</p> <p>3 A Yeah, I found two. One I know, one I 4 don't.</p> <p>5 Q All right. Again, you were not one of 6 the signatories?</p> <p>7 A Still true, yeah.</p> <p>8 Q Okay. Okay. What position does 9 Dr. Sharfstein hold within the University?</p> <p>10 MS. BROWN: Objection. Speculation.</p> <p>11 THE WITNESS: He's been in the 12 Department of Biostatistics, and I don't know 13 what -- what other ways to label what he -- what 14 his positions are.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. From the time you saw the 17 discussion about statistical significance and a 18 movement away from that and did your bit of 19 research, did you ever call Dr. Sharfstein to talk 20 to him about it?</p> <p>21 A Not yet. I'm hoping I'll just run into 22 him at some point and -- and ask him about that.</p> <p>23 Q Is the -- is your interest strong enough 24 that you might reach out to him?</p> <p>25 MS. BROWN: Objection to the form.</p>	<p>1 significance and p-values?</p> <p>2 A Yeah, well, I'd say the real world, 3 right. And the real world --</p> <p>4 Q I'm sorry. You're in the real world?</p> <p>5 A Real world, yeah.</p> <p>6 Q Okay. And what's the real world doing?</p> <p>7 A Well, the real world, if I want to write 8 a grant, I have to provide people with a sample 9 size estimate of what it is that I'm looking for, 10 and the sample size estimate is almost always 11 based on hypothesis testing. And you have to 12 declare a certain p-value that you find to be a 13 credible one.</p> <p>14 So I can't just say, I've decided 15 because I read some editorial that I'm not going 16 to use a p-value of 0.05. That I'm still stuck 17 with 0.05 as a -- as an estimate. And so if I 18 want to have any success getting a grant, I'm 19 going to have to still use the rules that we've 20 used for years.</p> <p>21 And if I publish a paper, I happened to 22 look because I thought it was curious, I went on 23 New England Journal's website --</p> <p>24 Q Yes.</p> <p>25 A -- and they have an extensive list of</p>
<p style="text-align: center;">Page 315</p> <p>1 What -- what interest are we talking about?</p> <p>2 BY MS. PARFITT:</p> <p>3 Q Interest in this science that you have 4 indicated yourself seems to be pretty important.</p> <p>5 MS. BROWN: Objection. That misstates 6 his testimony by a lot.</p> <p>7 THE WITNESS: So it -- it might be. I 8 mean, the -- the reason there's no urgency for me 9 to do it is that I still live in the world in 10 2019, and I'm still living in a world where 11 hypothesis testing is the rule and p-values are 12 part of what you're required to report if you're 13 going to publish a paper in a credible journal.</p> <p>14 And so, you know, whether -- whether 15 this gets traction or not, you know, we'll see. I 16 don't know what the replacement is going to be. I 17 don't know if chaos will ensue. It's an 18 interesting topic to talk about, but it's sure not 19 ready for prime time.</p> <p>20 So I think if I see Dan in the hall, I 21 might ask him about it, but there's no -- there's 22 no urgency to it.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q So what's the world you're living in 25 with regard to the relevance of statistical</p>	<p style="text-align: center;">Page 317</p> <p>1 ways in order to represent your p-values and your 2 confidence intervals that you have to adhere to if 3 you want to publish your papers. You know, Nature 4 said that they're not going to change their rules 5 based on this.</p> <p>6 So, anyway, so it's like it's -- that's 7 the world that we live in right now. If you want 8 to communicate about -- about clinical science, 9 then you're going to have to use the rules that 10 we've learned to -- that we've learned to use.</p> <p>11 Q Do you know if the rules you've just set 12 forth are the rules that Dr. -- or, excuse me, 13 that Dr. Rothman and Sander Greenland, esteemed 14 epidemiologists, promote in their practice?</p> <p>15 A I have no idea what they promote.</p> <p>16 Q Well, you read the article in Nature, 17 didn't you?</p> <p>18 A Yeah, but you said "their practice." I 19 don't even know what that is even.</p> <p>20 Q Well, who is the author of the Nature 21 article?</p> <p>22 A We're talking about the -- the 23 commentary?</p> <p>24 Q That's right.</p> <p>25 A Yeah. So it looks like Armhein,</p>

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<p>1 Greenland and McShane. Or maybe not. Maybe 2 that's -- wait a minute, I could be wrong. No, 3 it's -- it's those three.</p> <p>4 Q And again, you don't know -- do you know 5 any of them? I know you don't know Dr. Greenland. 6 Do you know any of the others?</p> <p>7 A I do not.</p> <p>8 Q Okay. So if I understand your opinion 9 today, you still believe in the strength of a 10 statistical significance versus not statistically 11 significant?</p> <p>12 A It's --</p> <p>13 MS. BROWN: Objection to the form.</p> <p>14 THE WITNESS: It's still a factor to 15 consider when either planning, conducting, or 16 interpreting a study.</p> <p>17 BY MS. PARFITT:</p> <p>18 Q Okay. And do you still live in the 19 world that there is a threshold of a p-value of 20 0.05?</p> <p>21 A It depends.</p> <p>22 Q Well, what do you mean "it depends"?</p> <p>23 A I'm going to explain.</p> <p>24 Q Please.</p> <p>25 A So that's why I used the example of p at</p>	<p>1 took wasn't anything novel or different. I mean, 2 I don't know at all what his plans are going 3 forward, but he still works at the University 4 where we still compete for NIH grants --</p> <p>5 Q Mm-hmm.</p> <p>6 A -- and I haven't seen any change in the 7 NIH's posture on this, and I haven't seen any, you 8 know, ground swell of support for just doing 9 whatever you feel like in order to publish your 10 paper.</p> <p>11 Q Well, are you suggesting that what 12 Dr. Greenland and others and Dr. Wasserstein have 13 suggested to do whatever you -- let me get your 14 words -- shall -- yeah. Okay.</p> <p>15 MS. PARFITT: Tell you what, let's take 16 a quick break. I want to find that part, and 17 we'll get back. Let's take a quick break.</p> <p>18 THE VIDEOGRAPHER: The time is 2:44 p.m. 19 We're going off the record.</p> <p>20 (Recess.)</p> <p>21 THE VIDEOGRAPHER: The time is 2:53 22 p.m., and we're back on the record.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Dr. Diette, when we left just before the 25 break, you said: "I haven't seen any ground swell</p>
<p style="text-align: center;">Page 319</p> <p>1 0.05, right? I could just say, I have decided 2 that now I only want to do studies with six people 3 in them, and I'll be happy to have a p-value of 4 0.5. You'd have to wish me luck getting it 5 published anywhere because it's not going to 6 happen, right?</p> <p>7 So if I still want to do research and I 8 still want to get it published, I'm going to have 9 to pick a threshold for a p-value that's agreeable 10 to the peer reviewers and to the editor. And it 11 doesn't have to be 0.05. In some circumstances it 12 might be 0.01. It might be even lower than that. 13 But a -- but a p threshold is necessary, at least 14 in our current era, if you want to be able to 15 conduct and talk about your research.</p> <p>16 Q Do you -- do you think Dr. Sharfstein is 17 going to now have difficulty having his scientific 18 works published?</p> <p>19 MS. BROWN: Objection. Based on what? 20 There's no foundation for that question.</p> <p>21 BY MS. PARFITT:</p> <p>22 Q You can answer the question, Doctor.</p> <p>23 A Well, exactly that. So -- so Sharfstein 24 has been involved in some of our research and some 25 critical illness stuff, and the approach that we</p>	<p style="text-align: center;">Page 321</p> <p>1 of support for doing whatever you feel like in 2 order to publish your paper."</p> <p>3 I'm not talking about the publication of 4 papers. What I would like to know from you is, do 5 you agree, though, when you were evaluating the 6 consistency of evidence, that one should not 7 disregard studies that are nonstatistically 8 significant and give greater weight to those that 9 are statistically significant?</p> <p>10 MS. BROWN: Objection to the form of the 11 question.</p> <p>12 THE WITNESS: I hear two questions 13 there, and the first part I agree with, and the 14 second part, it depends.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. Do you agree that when you are 17 evaluating and weighing evidence, studies, that 18 you should evaluate studies the same whether they 19 are statistically significant or not statistically 20 significant?</p> <p>21 MS. BROWN: Objection to the form. In 22 what context?</p> <p>23 THE WITNESS: I don't know what 24 "evaluate the same" means. I mean, I think any -- 25 any study that you think should be evaluated</p>

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<p>1 should be evaluated, you know, as thoroughly as 2 you can.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q When you're evaluating the consistency 5 of studies, is it proper epidemiology to consider 6 those studies whether or not they are 7 statistically significant or nonstatistically 8 significant?</p> <p>9 MS. BROWN: Objection to the form.</p> <p>10 THE WITNESS: It is. And I think, you 11 know, regardless of what Dr. Rothman has written, 12 you know, it's part of the information that's 13 available to you, and I think to ignore it would 14 be, you know, not in your best interest.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. And would you agree that one 17 should not conclude there is no association or no 18 difference just because a -- one study is 19 statistically significant and another study is 20 significant?</p> <p>21 MS. BROWN: Objection to the form.</p> <p>22 THE WITNESS: And I agree with you, 23 especially because you used "just because."</p> <p>24 BY MS. PARFITT:</p> <p>25 Q All right. So maybe -- what do you</p>	<p>1 BY MS. PARFITT: 2 Q Okay. Now, let's turn to -- your chart, 3 and specifically the studies that you set forth in 4 your report on pages 13 and 14. 5 And if you'd go to your report, 13 and 6 14. 7 A I'm sorry, I've got somebody else's 8 thing here. 9 Q That's okay. 10 A Okay. 11 Q Okay. You got there? All right. 12 What I would like -- all right. So you 13 have that in front of you, correct, sir? 14 A I do. 15 Q Okay. Now, what I'll have marked as -- 16 for demonstrative purposes is a chart that we have 17 marked as Diette Exhibit 21. 18 (Diette Exhibit No. 21 was marked 19 for identification.) 20 BY MS. PARFITT: 21 Q And let me hand that to you. 22 MS. BROWN: Counsel, can you give a 23 representation for the record about what 24 Exhibit 21 is? 25 MS. PARFITT: Yes, I was about to do</p>
<p>1 mean?</p> <p>2 A No, it's a good sentence. I mean, I -- 3 it -- I think that over and over what we're 4 talking about is that -- that you shouldn't be 5 wedded to the idea that statistical significance 6 is the only feature that you look at, but it 7 doesn't mean that you don't look at it.</p> <p>8 And so when you say that, you know, if 9 you were just to hold up two studies, and one was 10 significant and the other one wasn't and -- that 11 wouldn't -- you know, you wouldn't be curious 12 enough. You would need to know more about those 13 studies to reach the conclusion you do.</p> <p>14 So I think, you know, looking at the 15 whole study, looking how it's built, looking how 16 it's interpreted, all that's important.</p> <p>17 Q All right. So it would not be proper to 18 conclude the two studies conflict just because one 19 was significant and one was statistically 20 significant.</p> <p>21 MS. BROWN: Objection. Misstates 22 testimony.</p> <p>23 THE WITNESS: It -- not -- not by 24 itself, but that is at least one indicator of 25 something that's different about those studies.</p>	<p>1 that. 2 MS. BROWN: Thank you. 3 BY MS. PARFITT: 4 Q Dr. Diette, on pages 13 and 14, you 5 have -- of your report, you have listed I believe 6 25 case-control studies, 3 cohort studies and -- 7 is that correct? 8 MR. LOCKE: Objection. 9 BY MS. PARFITT: 10 Q You've got 7 population studies on the 11 back. That's on page 14. You have 25 12 case-control -- hospital studies, rather, on 13 page 14, and 25 studies on page 13. Is that 14 correct? 15 MR. LOCKE: Do you have a copy for -- 16 MS. PARFITT: Beg your pardon? 17 MR. LOCKE: Do you have a copy for me, 18 please? 19 MS. PARFITT: Oh, Tom, I think we do, 20 yeah. 21 MR. LOCKE: Thank you. Is this a -- 22 does this come from a published -- 23 MS. PARFITT: No. Let me represent -- 24 no, let me represent that Exhibit No -- Exhibit 21 25 is a demonstrative which lists all of the studies</p>

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<p>1 that Dr. Diette listed in his report on page 13 2 and 14 and has put them on a graph. 3 MS. BROWN: Who -- who put them on a 4 graph and what is the graph? 5 MS. PARFITT: Counsel -- 6 MS. BROWN: Well, I'm going to have an 7 objection to this document, and I just want to -- 8 MS. PARFITT: You can. You can object 9 to this -- 10 MS. BROWN: -- make sure I'm properly 11 objecting, because I don't know what it is, who 12 made it, based on what, and to the extent the 13 doctor needs the underlying studies to answer your 14 questions. We'll -- 15 MS. PARFITT: Counsel, no speaking 16 objections. 17 MS. BROWN: I just want to object to 18 this. 19 BY MS. PARFITT: 20 Q Dr. Diette -- 21 MS. PARFITT: I understand, Counsel. I 22 know what you're doing. 23 MS. BROWN: The name is Diette. 24 MS. PARFITT: Diette? 25 MS. BROWN: Diette.</p>	<p>1 MS. PARFITT: Yeah, there you go. 2 There you go, Doctor. 3 BY MS. PARFITT: 4 Q Doctor, I've handed you what's marked as 5 Exhibit 22. It is the -- an article by Patricia 6 Hartge dated 1983 in JAMA. Do you see that? 7 A I do. 8 Q Okay. And at the top of the study, she 9 has a table entitled "Estimated Relative Risk." 10 Do you see that? 11 A I do. 12 Q And I'll put this up on the ELMO. 13 MS. PARFITT: Okay. And it's hard to 14 see. We'll have to zero in there. There you go. 15 Okay. 16 BY MS. PARFITT: 17 Q You'll see on your chart you had listed 18 for Hartge, 1983, a relative risk of 0.7 with a 19 confidence interval of 0.40 to 1.10. 20 Do you see that? 21 A Uh -- 22 Q Look at your -- 23 A I do, yep. 24 Q -- on page 14. 25 Okay. Now, look at the table of the</p>
<p style="text-align: center;">Page 327</p> <p>1 MS. PARFITT: Diette. 2 BY MS. PARFITT: 3 Q I'm sorry, Dr. Diette. I'm not doing it 4 to annoy you. 5 A You've had it -- you've had it right all 6 day. You're good. 7 Q Thank you. Thank you. I appreciate 8 that. 9 What I will represent to you, and you 10 can track it, Dr. Diette, that Exhibit No. 21 11 represents the sales studies you selected for 12 purposes of your expert report. It lists them 13 study by study. It plots them on a forest plot on 14 the right-hand side. 15 Do you see that? 16 A I do. 17 Q Okay. And I'll represent that we took 18 your relative risks and confidence intervals, and 19 simply extracted those and put them on Exhibit 21 20 with one exception. 21 What I'd like you to do is look at 22 Hartge. And we will have that marked as 23 Exhibit 22. 24 (Diette Exhibit No. 22 was marked 25 for identification.)</p>	<p style="text-align: center;">Page 329</p> <p>1 Hartge study under "Genital Talc Use." 2 Do you see that? 3 A I do. 4 Q Okay. And do you see where Dr. Hartge 5 reports that the relative risk for genital use 6 talcum powder is not what you have as 0.7, but 2.5 7 with a confidence interval of 0.7 to 10. 8 Do you see that? 9 A I do. 10 Q All right. So that would be an error in 11 your chart; is that correct? 12 MS. BROWN: Objection. 13 Doctor, take as long as you need to look 14 at what counsel is asking you about. 15 And -- 16 MS. PARFITT: Counsel -- 17 MS. BROWN: -- Counsel, do you mean 18 to -- 19 MS. PARFITT: Counsel -- 20 MS. BROWN: -- misrepresent the 21 paragraph? 22 MS. PARFITT: No, Counsel. And, listen, 23 if the Doctor doesn't have any questions -- he's a 24 very intelligent man as we've seen today -- 25 MS. BROWN: I know, but what you're</p>

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<p>1 saying is not right.</p> <p>2 MS. PARFITT: Counsel, that's it. No.</p> <p>3 I'm sorry.</p> <p>4 MS. BROWN: Are you intentionally</p> <p>5 misrepresenting what's in the paper?</p> <p>6 MS. PARFITT: Counsel, if you heard my</p> <p>7 question -- I think Dr. Diette understands the</p> <p>8 question.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Dr. Diette, we have on the table a</p> <p>11 genital use, which is 2.5 with a confidence</p> <p>12 interval of 0.7 to 10.</p> <p>13 Do you see that?</p> <p>14 A Yeah, I'm sorry. Can you give me just</p> <p>15 one second?</p> <p>16 Q Okay. Of course I can.</p> <p>17 A Thank you. (Peruses document.)</p> <p>18 Yeah, I'm with you.</p> <p>19 Q Okay. And the only correction I -- I</p> <p>20 wish to make is that, instead of the 0.70 that you</p> <p>21 have for Hartge, it should be 2.5 --</p> <p>22 MS. BROWN: Objection.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q -- for the genital --</p> <p>25 MS. PARFITT: Let me finish, Counsel.</p>	<p>1 MS. BROWN: Okay. Then let him --</p> <p>2 MS. PARFITT: I just don't want you</p> <p>3 coaching --</p> <p>4 MS. BROWN: -- answer the question.</p> <p>5 MS. PARFITT: -- and touching the paper</p> <p>6 and pointing at things.</p> <p>7 MS. BROWN: You are intentionally</p> <p>8 misreading this document.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Doctor -- all right, Dr. Diette, you're</p> <p>11 the one I'm interested in hearing from, to be</p> <p>12 perfectly candid.</p> <p>13 My question is, are the -- is the</p> <p>14 relative risk that you have listed for Hartge</p> <p>15 0.70, or should it be 2.5?</p> <p>16 A You know, the -- the study report is</p> <p>17 really tough I think to decide that either one of</p> <p>18 them is ideal. And for a couple of reasons, and</p> <p>19 one is just because this -- this genital with an</p> <p>20 asterisk, it isn't literally just genital</p> <p>21 application. It includes sanitary napkins.</p> <p>22 And you can see in a lot of the studies</p> <p>23 that people have sort of broken out sanitary</p> <p>24 napkin use separate from like perineal</p> <p>25 application.</p>
<p style="text-align: center;">Page 331</p> <p>1 BY MS. PARFITT:</p> <p>2 Q -- for the genital use of talc. Do you</p> <p>3 agree with that?</p> <p>4 MS. BROWN: Objection to the form.</p> <p>5 THE WITNESS: So, maybe. I'm just</p> <p>6 trying to think about how I got --</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Sure.</p> <p>9 A -- got here. Because the -- you know,</p> <p>10 the text says that it's -- there were ten users,</p> <p>11 so I guess like seven cases and three controls.</p> <p>12 Q Mm-hmm.</p> <p>13 A It said -- specifically mentioned use on</p> <p>14 sanitary napkins, underwear, or the genital area.</p> <p>15 But then it says -- but estimated is</p> <p>16 2.5, but the small number of exposed women yielded</p> <p>17 an unreliable estimate. So I --</p> <p>18 MS. BROWN: It's --</p> <p>19 THE WITNESS: Yeah --</p> <p>20 MS. PARFITT: You don't have to show the</p> <p>21 doctor.</p> <p>22 MS. BROWN: Do you want the truth on the</p> <p>23 record, or do you want --</p> <p>24 MS. PARFITT: You know, I really do want</p> <p>25 the truth.</p>	<p style="text-align: center;">Page 333</p> <p>1 And so, you know, that's not an ideal</p> <p>2 measure for this -- this chart either. I mean, I</p> <p>3 get your point, the all over is something else.</p> <p>4 But there's at least -- you know, there's more</p> <p>5 than ten people at least in that particular --</p> <p>6 that particular row. So I -- I'm not sure if</p> <p>7 either of these is great, but they --</p> <p>8 Q Well, the analysis you went through, did</p> <p>9 you go through that analysis for each and every</p> <p>10 one of the studies that you listed when you made a</p> <p>11 decision as to which odds ratio to select?</p> <p>12 A I did.</p> <p>13 Q You did.</p> <p>14 A I mean, I tried to pick the one that --</p> <p>15 that fit the best.</p> <p>16 Q Okay. And is the one that fits the best</p> <p>17 for Hartge the 0.70, or is the one that fits the</p> <p>18 best for Hartge the 2.5?</p> <p>19 MS. BROWN: Objection to the form.</p> <p>20 THE WITNESS: So I don't know. I mean</p> <p>21 other than the fact that you've got the word</p> <p>22 "genital" there, I mean "all over" is kind of</p> <p>23 confusing, right, because it doesn't say like "all</p> <p>24 over except the genitals," right.</p> <p>25 And so that's where it gets kind of</p>

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<p>1 confusing is how you -- it's not a great study, 2 right. I mean, I'm not saying the study is not 3 great. I'm saying the report of the study doesn't 4 really tell us everything that you could really 5 wish to know.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q So would you like to keep your chart 8 with the 0.70, or do you think the chart should be 9 modified to say 2.5?</p> <p>10 MS. BROWN: Objection to the form.</p> <p>11 THE WITNESS: I mean, I'd be happy to 12 put both rows there and just with an asterisk, and 13 explain, you know, what each one of those is.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q Okay. Would you -- have you done that 16 for all the other studies that you've listed here, 17 wherein there may be data for sanitary napkins and 18 data for genital use and data for cornstarch? Did 19 you go through that analysis?</p> <p>20 MS. BROWN: Objection to the form.</p> <p>21 THE WITNESS: So, for this table I 22 haven't, but I have gone through all the sanitary 23 napkin findings that I can. And that's one of the 24 things you'll find in my handwritten notes from 25 the -- from the prior case.</p>	<p>1 you did, where is that contained in your report?</p> <p>2 MS. BROWN: And you should feel free to 3 answer both questions since counsel cut you off.</p> <p>4 THE WITNESS: I have no idea about what 5 you mean by where it is in the report.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Well, I only have RRs here. I have a 8 table. No analyses of the different case 9 controls. Just a table of their relative risks.</p> <p>10 So, you've now gone through an analysis 11 of the Hartge case and said, You know, maybe this 12 is what we should have extracted, maybe we should 13 have looked at this, but I used my judgment and 14 put the 0.7.</p> <p>15 And what I'm asking is, is that analyses 16 that you just did for us on the record the kind of 17 analysis that you did for all the other studies? 18 And if it was, where in the 51 pages of your 19 report or this chart have you included that 20 information?</p> <p>21 MS. BROWN: Objection. Completely 22 misstates his testimony, as well as the article, 23 as well as the report, as well as the chart.</p> <p>24 THE WITNESS: Let me just see. So 25 obviously it's not -- it's not documented, but I</p>
<p style="text-align: center;">Page 335</p> <p>1 In terms of cornstarch, that's a 2 different question.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q And, Doctor, I --</p> <p>5 MS. BROWN: Wait, he needs to finish. 6 He's got to --</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Doctor, that's really not my question.</p> <p>9 MS. BROWN: No, no, no, no, no, he --</p> <p>10 BY MS. PARFITT:</p> <p>11 Q My question is this --</p> <p>12 MS. BROWN: Counsel.</p> <p>13 MS. PARFITT: Counsel.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q My question is --</p> <p>16 MS. BROWN: He has to finish the 17 question.</p> <p>18 BY MS. PARFITT:</p> <p>19 Q You're not answering my question. Mine 20 is a very simple one.</p> <p>21 My question was -- if you'll be patient 22 with me, my question was: The analysis that 23 you've just talked about that you're going through 24 with Hartge, did you go through a similar analysis 25 for each and every one of these studies; and if</p>	<p style="text-align: center;">Page 337</p> <p>1 think part of what I'm trying to do is communicate 2 what the -- what the risks are that were reported 3 and what their confidence bounds were.</p> <p>4 And so, you know, the papers stand for 5 themselves. They all exist. They're all cited. 6 We can look at anything we want.</p> <p>7 I think in terms of the cornstarch 8 issue --</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Doctor, I'm not asking about --</p> <p>11 MS. BROWN: Stop cutting him off.</p> <p>12 BY MS. PARFITT:</p> <p>13 Q -- the cornstarch. We can talk about 14 that later. I'm not talking about cornstarch.</p> <p>15 MS. BROWN: You cannot continue to cut 16 him off, or we'll have to call the Judge.</p> <p>17 MS. PARFITT: I don't have a question 18 about cornstarch.</p> <p>19 MS. BROWN: He's answering your 20 question.</p> <p>21 MS. PARFITT: He is not.</p> <p>22 MS. BROWN: You have to let him answer 23 or we have to call the Judge. You are 24 violating --</p> <p>25 MS. PARFITT: You can do it in your</p>

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<p>1 direct.</p> <p>2 MS. BROWN: No, you have to let him</p> <p>3 answer the question or --</p> <p>4 MS. PARFITT: Counsel.</p> <p>5 MS. BROWN: We're going off the record.</p> <p>6 MS. PARFITT: Do you want to go -- we'll</p> <p>7 go off the record right now.</p> <p>8 MS. BROWN: Yeah, let's go. Fine. Do</p> <p>9 we need to call the Judge? You have to let him</p> <p>10 answer.</p> <p>11 MS. PARFITT: We'll call her. We'll</p> <p>12 call her.</p> <p>13 THE VIDEOGRAPHER: The time is 3:09 p.m.</p> <p>14 We're going off the record.</p> <p>15 (A discussion was held off the record.)</p> <p>16 THE VIDEOGRAPHER: The time is</p> <p>17 3:10 p.m., and we're back on the record.</p> <p>18 MS. PARFITT: Thank you.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q And, Dr. Diette, all I'm trying to -- to</p> <p>21 ask, and obviously very poorly, is the analysis</p> <p>22 that you just discussed that you went through with</p> <p>23 Hartge, as we sat here today and you did it on the</p> <p>24 record, did you do that for all the other studies?</p> <p>25 A I tried to.</p>	<p>1 BY MS. PARFITT:</p> <p>2 Q Correct?</p> <p>3 A I did.</p> <p>4 Q Okay. And my last question is, is that</p> <p>5 the position you wish to take today?</p> <p>6 MS. BROWN: Objection to the form.</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Or would you modify that and use a</p> <p>9 different relative risk? That's all.</p> <p>10 A I don't --</p> <p>11 MS. BROWN: Objection.</p> <p>12 THE WITNESS: I don't think anybody is</p> <p>13 well served by looking at this other number, other</p> <p>14 than if you're just trying to make a point and</p> <p>15 be -- you know, for a plaintiff or something to</p> <p>16 look at this 2.5.</p> <p>17 I think if you take this one that says</p> <p>18 there's a small number of exposed women, ten</p> <p>19 people, you know, that yields an unreliable</p> <p>20 estimate. I mean, somebody should fuss about that</p> <p>21 too. So that's not -- that's not an ideal</p> <p>22 measure.</p> <p>23 If it helps, we can put them on the</p> <p>24 table, and it wouldn't really change things,</p> <p>25 right. You've got confidence bounds from 0.7 to</p>
<p style="text-align: center;">Page 339</p> <p>1 Q Okay. And so you had to make</p> <p>2 determinations as to what relative risks to</p> <p>3 extract from those studies, correct?</p> <p>4 MS. BROWN: Objection to the form.</p> <p>5 THE WITNESS: I -- I had to work with</p> <p>6 what they reported.</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Okay. And just like Hartge, they</p> <p>9 reported different pieces of information:</p> <p>10 Diaphragms used, no diaphragm, all over, genital,</p> <p>11 legs, feet, correct?</p> <p>12 A Correct.</p> <p>13 Q And you had to decide what was the most</p> <p>14 appropriate data to pull from those studies to</p> <p>15 include on your chart for relative risks, correct?</p> <p>16 A For the most --</p> <p>17 MS. BROWN: Objection to the form.</p> <p>18 THE WITNESS: Yes, of course.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q Okay. So my question to you is, you</p> <p>21 chose for the Hartge, based upon that analysis, to</p> <p>22 use the -- any talc mentioned, which gave us a</p> <p>23 relative risk of 0.7, as opposed to genital, which</p> <p>24 would have represented a 2.5 risk.</p> <p>25 MS. BROWN: Objection to the form.</p>	<p style="text-align: center;">Page 341</p> <p>1 10. I mean, that's an enormous confidence value.</p> <p>2 So there's not a lot of information from those ten</p> <p>3 people.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q And the reason I ask as well, as you</p> <p>6 said earlier on in your deposition, you did not</p> <p>7 know for all these studies their sample size.</p> <p>8 A Oh, no, no, no. I didn't memorize it,</p> <p>9 but I've got all the studies, and it's a piece of</p> <p>10 cake, we can just go look at them and look at the</p> <p>11 sample size. I didn't want to, like -- I didn't</p> <p>12 want to, like, make -- this is already a long</p> <p>13 enough report. I don't need to put every bit of</p> <p>14 data from every study in it to have it make sense</p> <p>15 to me.</p> <p>16 Q So somewhere you have all the sample</p> <p>17 sizes pulled together for the various cases and</p> <p>18 controls for each one of these studies?</p> <p>19 A It's in every one of the studies.</p> <p>20 Q I know it's in each and every one of the</p> <p>21 studies, but did you document it on any kind of</p> <p>22 chart or anything like that?</p> <p>23 A For what?</p> <p>24 Q So that you could tell someone like me</p> <p>25 and the Court why you chose the data that you did.</p>

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<p>1 A We can just look at the studies. If I 2 documented the sample size next to each one of 3 these, it wouldn't tell you why I picked this 4 particular relative risk.</p> <p>5 Q It would -- it would not offer valid 6 information as to the relevance of those relative 7 risks?</p> <p>8 A Oh, my gosh. I mean if you were 9 interested in it, I could find it for you. It 10 wasn't -- it wasn't important for me to 11 communicate what I was trying to communicate.</p> <p>12 Q No, I -- it's a different question.</p> <p>13 Is sample size important when one is 14 doing an analysis of a scientific study?</p> <p>15 A Yeah, that's why it's in the paper.</p> <p>16 Q Okay. Because if the sample size is too 17 small, it may be underpowered; is that correct?</p> <p>18 MS. BROWN: Objection.</p> <p>19 THE WITNESS: Well, I don't know. I 20 mean, if we're going to do power now, I think 21 that's going to be a different -- a different 22 conversation.</p> <p>23 The sample size being small can have all 24 kinds of -- all kinds of impact. This to me is 25 actually the most generous way to look at these</p>	<p>1 doesn't change anything about this exercise. 2 BY MS. PARFITT: 3 Q Okay. Well, I didn't select Hertge. 4 You selected Hertge. 5 A Well, I selected it because it exists. 6 I mean, I -- my -- my goal was to find all the 7 studies that exist. 8 Q Okay. 9 A I mean, I didn't invent it, right? I 10 just -- I just looked at -- 11 Q Well, I just didn't want the record to 12 reflect that I was selecting your data. 13 A No, but you -- it sounds like you would 14 prefer me to use that 2.5 from the ten people, 15 instead of the 0.7 from the nearly hundred people. 16 Q I have -- 17 A And I'm happy to look at them both. I 18 mean they both tell us some information. It's not 19 like, you know, one is ideal and the other isn't. 20 But it really doesn't change the basic premise 21 here. 22 Q All right. So on my chart I have them 23 both. I have 0.7 and 2.5. Do you see that? 24 A Um -- 25 Q Right at the bottom there, "Genital use"</p>
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<p>1 data, rather than picking at the same size. I 2 mean, I can do that too, right? I can say, This 3 is a crummy study because it's got 23 people, or 4 this is crummy one -- that wasn't my goal. It 5 wasn't to sort of tear down the -- the 6 case-control studies.</p> <p>7 I was trying to have a balanced approach 8 here, I think unlike the plaintiffs' experts, and 9 I wasn't trying to say that this one particular 10 design is awful and the other one is good. I was 11 just trying to represent something about it in 12 order to summarize it and communicate a point.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Okay. And your balanced approach was to 15 take the lower, the 0.7 relative risk, rather than 16 the 2.5 relative risk.</p> <p>17 A Oh, my goodness.</p> <p>18 MS. BROWN: Objection to the form.</p> <p>19 THE WITNESS: I -- I think -- I mean, I 20 think this little article, that doesn't even fit 21 on an entire page, gives us so little information 22 about what to do, and I think my point about there 23 being ten people that provide a relatively 24 uninformative risk, it's not great. If you want 25 to use it, you're welcome to, but it doesn't -- it</p>	<p>1 and "Any talc use." Do you see that? 2 A I do. 3 Q Okay. All right. So as I appreciate 4 your testimony, you had selected 25 population 5 case controls, 7 hospital -- and 7 hospital case 6 controls, correct? 7 MS. BROWN: Objection. 8 BY MS. PARFITT: 9 Q Do I have the numbers right? 10 A I wasn't listening. I'm sorry. 11 MS. BROWN: Look at the realtime. I 12 just think you misspoke. You said seven hospitals 13 twice. Is that what you meant? 14 BY MS. PARFITT: 15 Q As I appreciate your testimony, you 16 selected -- no, this is population -- 25 population 17 case controls and 7 hospital case controls. I 18 said it twice. Correct? 19 A That's correct. 20 Q Okay. And that formed the basis for 21 your selection of case studies, correct? 22 MS. BROWN: Objection to the form. 23 THE WITNESS: Case-control studies. 24 BY MS. PARFITT: 25 Q Case-control studies.</p>

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<p>1 A Correct. 2 Q Yes. Okay. 3 Now, looking at the chart, which is 21, 4 what is the point estimate -- wait. 5 What I would like you to do, rather, I 6 would like you to circle the point estimate for 7 every study that exceeds -- that has a 1.0. 8 MS. BROWN: Objection. Based on the 9 document you created as 21? 10 MS. PARFITT: Which is identical to the 11 doctor's document, with the exception of I put two 12 numbers for Hartge. 13 MS. BROWN: You put two numbers for 14 Moorman too. 15 MS. PARFITT: Before and after 2014, 16 correct? 17 MS. BROWN: Nope, Moorman is 2009. You 18 have -- you've broken out Moorman by race. 19 MS. PARFITT: I did. 20 MS. BROWN: So I mean, my point here is 21 just if you wanted to use his report, he's happy 22 to answer your questions, but -- 23 MS. PARFITT: He did it -- but he did it 24 too. 25 MS. BROWN: Okay. That's fine.</p>	<p>1 to be hard for me to read it off of your figure 2 because I don't know, like -- like, the Harlow and 3 Weiss one -- what is wrong with that one? Or is 4 it -- 5 MS. BROWN: That looks wrong, doesn't 6 it? 7 THE WITNESS: No, it's Harlow and Weiss 8 versus Harlow. 9 So what am I circling? I'm circling 10 the -- the -- on the forest plot? 11 BY MS. PARFITT: 12 Q On the forest plot, if you would be kind 13 enough to circle every relative risk where the 14 point estimate was 1.0 or above. 15 A Oh, I did it wrong. 16 Q That's all right. 17 A Sorry. I'm circling the ones that 18 are -- do you have another -- another copy of 19 this? 20 MS. MILLER: You can have mine. 21 MR. LOCKE: I didn't -- 22 MS. PARFITT: I'm sorry. I'm sorry, 23 Tom? 24 MR. LOCKE: I just couldn't hear -- you 25 trailed off at the end.</p>
<p style="text-align: center;">Page 347</p> <p>1 MS. PARFITT: It's on his chart. 2 BY MS. PARFITT: 3 Q I didn't do anything -- the only 4 modification I made to your chart, Doctor, is 5 Hartge, and there I kept your 0.70 and added the 6 genital 2.5. 7 And what I'd like you to do is circle in 8 that document every point estimate or odds ratio 9 that is 1.0 or above. 10 A 1.0 or higher? 11 Q That's right. 12 MS. BROWN: Objection to the exercise. 13 And, Doctor, if you need the articles, 14 we'll give them to you. 15 THE WITNESS: So just as an example, if 16 we look at Jordan 2007, which has an odds ratio of 17 1.00 -- 18 BY MS. PARFITT: 19 Q Mm-hmm. 20 A -- you find that one that would be 21 interesting for me to circle. 22 Q If it has a 1.0, I'd like you to circle 23 it. 24 A Sure. 25 So in terms of your -- like, it's going</p>	<p style="text-align: center;">Page 349</p> <p>1 MS. PARFITT: Sure. 2 BY MS. PARFITT: 3 Q You have -- and maybe I can shorten this 4 for you, how about that, in the interest of time. 5 A Your call. 6 Q We have -- thank you. I appreciate 7 that. 8 We've got about 32 studies here. How 9 many of those studies reflect an odds ratio 10 greater than 1.0? 11 MS. BROWN: For a relative risk? 12 MS. PARFITT: Correct. 13 THE WITNESS: I don't know what to do 14 with Moorman, because it's one study, right. Two 15 different odds ratios. 16 BY MS. PARFITT: 17 Q Mm-hmm. 18 A But it looks like above the dotted line, 19 it's -- there's 24 studies, I guess, and then down 20 below it, there's -- one, two, three, four, 21 five -- there's 5 that are above 1.0, and you said 22 above 1.0 this time, before you said -- 23 Q Above -- I did, above 1.0. 24 A Because the including an odds ratio of 25 1.00 is evidence of something above 1.0 would</p>

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<p>1 be --</p> <p>2 Q Right. So we're doing above 1.0.</p> <p>3 A Okay.</p> <p>4 Q You pointed that out, and you're right.</p> <p>5 A Yeah. So have I done it? There's one,</p> <p>6 two, three, four -- well, I guess Hartge is --</p> <p>7 one, two, three, four, five --</p> <p>8 Q Sure.</p> <p>9 A -- there's five down below the dotted</p> <p>10 line, and there were --</p> <p>11 Q Okay. And if you can just identify</p> <p>12 those where the point estimate does not exceed --</p> <p>13 it's not above 1.0.</p> <p>14 MS. BROWN: Counsel, can you represent,</p> <p>15 on the record, what this second up from the bottom</p> <p>16 is?</p> <p>17 MS. PARFITT: Sure. Hartge and Stewart,</p> <p>18 '94.</p> <p>19 MS. BROWN: Underneath that.</p> <p>20 MS. PARFITT: Wong.</p> <p>21 MS. BROWN: No, above -- what is the</p> <p>22 entry above Wong?</p> <p>23 MS. PARFITT: Oh, in his table --</p> <p>24 THE WITNESS: Oh, that too.</p> <p>25 MS. PARFITT: In his table he had RR</p>	<p>1 that those studies have a relative risk in excess</p> <p>2 of 1.0 demonstrate a positive result?</p> <p>3 MS. BROWN: Objection to the form.</p> <p>4 THE WITNESS: So some -- some of those,</p> <p>5 yes, and some of those, no.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q All right. Would it be fair to say that</p> <p>8 they're certainly trending above the null; is that</p> <p>9 correct?</p> <p>10 MS. BROWN: Objection to the form.</p> <p>11 THE WITNESS: Not necessarily. I'm just</p> <p>12 trying to imagine like -- I think I understand why</p> <p>13 you're doing this -- but I'm just trying to</p> <p>14 imagine like standing in front of colleagues like</p> <p>15 with the Tzonou one and say, I've decided that a</p> <p>16 relative risk of 1.05 is a positive risk.</p> <p>17 I mean, you can only guess so close to</p> <p>18 1.0. I mean, 1.0 is basically null, right?</p> <p>19 There's no -- there's no effect. So you can hope</p> <p>20 for, but you're rarely going to get a 1.00. So if</p> <p>21 you get like a 1.01, 1.02, 1.03, those are</p> <p>22 basically 1.0.</p> <p>23 I mean, you can -- you can say -- try to</p> <p>24 make some point to somebody, Oh, it's a little bit</p> <p>25 above 1.0; therefore, it's a positive association.</p>
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<p>1 0.03, RR 0.05. It was just extracted from his</p> <p>2 table.</p> <p>3 MS. BROWN: Oh, it's the second Hartge</p> <p>4 and Stewart.</p> <p>5 MS. PARFITT: Yeah.</p> <p>6 THE WITNESS: And so you want where just</p> <p>7 the midpoint is above the number 1.0?</p> <p>8 BY MS. PARFITT:</p> <p>9 Q Correct.</p> <p>10 A So Cramer, Harlow, Harlow, Chen, Cramer,</p> <p>11 Purdie, Chang, Cook, Green, Godard, Cramer, Ness,</p> <p>12 Mills, Cramer, Gates, Merritt; the two odds ratios</p> <p>13 for Moorman, Wu, Rosenblatt, Kurta, Kotsopoulos,</p> <p>14 Wu, Cramer, Schildkraut; and then one of the two</p> <p>15 Hartge's, Whittemore --</p> <p>16 Q And are you circling those, Doctor?</p> <p>17 A I'm not, no.</p> <p>18 Q Okay. If you could do that because</p> <p>19 we'll attach it as an exhibit. Sorry.</p> <p>20 A Should I just finish saying them --</p> <p>21 Q Sure.</p> <p>22 A -- and then go back and do it?</p> <p>23 So Rosenblatt, Tzonou, and that's it.</p> <p>24 So -- (circling studies.) Okay.</p> <p>25 Q Okay. What does the -- does the fact</p>	<p>1 But other than this setting, you're going to get</p> <p>2 laughed out of the room. I mean, this is -- this</p> <p>3 is a 1.05. So, you know, that's -- you call it</p> <p>4 what you want. I don't call that a positive</p> <p>5 finding.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Okay. Now, what I'd like you to do is</p> <p>8 look at the confidence intervals for each one of</p> <p>9 those studies, and circle where the confidence</p> <p>10 interval shows a relative risk of 1.2.</p> <p>11 MS. BROWN: Objection to the form of the</p> <p>12 question.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q And again, if you will just circle</p> <p>15 those.</p> <p>16 A I -- I think you'd be better off drawing</p> <p>17 a line, right. Because it -- I mean, this scale</p> <p>18 here isn't really -- like there's no vertical</p> <p>19 scale that's labeled here. Right. So you've got</p> <p>20 1.0, 1.1 and 1.2. I mean if you want, I think you</p> <p>21 ought to just take a ruler and run it up from 1.2.</p> <p>22 Q Why don't you just go ahead and identify</p> <p>23 them, if you will, and we can go ahead and do</p> <p>24 that. Let's see.</p> <p>25 A Well, like I can --</p>

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<p>1 Q My question is just simply this: Would 2 you identify all studies where the confidence 3 interval is 1.2 or higher?</p> <p>4 MS. BROWN: Objection to the form.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q And you can just circle them.</p> <p>7 A And it doesn't have to mean anything to 8 me, right?</p> <p>9 Q Nope. Just circle anything where the 10 confidence interval is above a 1.2.</p> <p>11 A So where the confidence interval 12 includes 1.2?</p> <p>13 Q 1.2, correct.</p> <p>14 A Or where it's above 1.2?</p> <p>15 Q It's above 1.2.</p> <p>16 MS. BROWN: The entire interval?</p> <p>17 THE WITNESS: Well, so there's not many, 18 right? So there's one --</p> <p>19 BY MS. PARFITT:</p> <p>20 Q You understand that it includes 1.2?</p> <p>21 A I heard -- oh, that's different, 22 because there's only one where it's above 1.2.</p> <p>23 Q It includes the 1.2.</p> <p>24 A Or two that are above it. 25 So the two that are above it, don't</p>	<p>1 was inconsistent.</p> <p>2 Q And that aspect --</p> <p>3 MS. BROWN: Are you looking at the 4 report?</p> <p>5 THE WITNESS: Yeah.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q -- was with regard to population study 8 versus hospital-based studies?</p> <p>9 A Well, I think I made a comment about 10 both, right?</p> <p>11 Q And if I can summarize your testimony, 12 but feel free to look, but your testimony from the 13 report -- or your writings and your report suggest 14 that the case-control studies are inconsistent, 15 and you focus on the fact that the hospital-based 16 controls were inconsistent with the population- 17 based controls.</p> <p>18 A That's one -- one of the areas of 19 inconsistency.</p> <p>20 Q Okay. And you base that opinion on the 21 fact that there -- the hospital-based studies were 22 not statistically significant, but the 23 population-based studies were statistically 24 significant; is that correct?</p> <p>25 MS. BROWN: Objection to the form.</p>
<p style="text-align: center;">Page 355</p> <p>1 include it, right, so we got to start over.</p> <p>2 Q Everywhere -- sure. You go ahead and do 3 it. Everywhere where the confidence interval is 4 above -- includes 1.2.</p> <p>5 A That's all right. I'm just going to put 6 a little asterisk next to them, because I already 7 made a mark --</p> <p>8 Q Sure, that's fine.</p> <p>9 A -- next to the ones that are above 1.2.</p> <p>10 Okay.</p> <p>11 Q Okay. Let's go ahead and just put this 12 here. I appreciate that.</p> <p>13 Okay. Here we go. Let's see here.</p> <p>14 Okay. So let's just stay with that one 15 here for a moment. Let me give you -- give you a 16 blank one here for a moment. Is that all right?</p> <p>17 So you have something in front of you.</p> <p>18 A Sure.</p> <p>19 Q Okay. All right.</p> <p>20 Dr. Diette, looking at the chart that we 21 just talked about, you have described in your 22 report that the case-control studies are 23 inconsistent. Is that your testimony?</p> <p>24 A I think we should look literally at what 25 I wrote, because I talked about one aspect that</p>	<p style="text-align: center;">Page 357</p> <p>1 THE WITNESS: That's one piece of 2 evidence, right. So one piece of evidence is that 3 the hospital-based ones, none of them were 4 statistically significant, and some of the 5 population-based ones were.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q All right. And because you had some of 8 the population-based studies, you found 9 inconsistent because the confidence intervals were 10 not -- were such that they were not statistically 11 significant; is that correct?</p> <p>12 A That's a --</p> <p>13 MS. BROWN: Objection to the form.</p> <p>14 THE WITNESS: And as before, that's a 15 piece of -- a piece of the information here.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q Okay. I've reviewed your report. Other 18 than the distinction between the statistical 19 significance of studies versus the nonstatistical 20 significance of studies, how else did you discern 21 that they were different and not consistent?</p> <p>22 A Well, I have a section on consistency. 23 So it -- there's other things about these studies 24 that are inconsistent.</p> <p>25 So, for example, the -- the</p>

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<p>1 dose-response relationships are all over the 2 place. So that I found to be an inconsistency. 3 The findings about certain kinds of ovarian 4 cancers, some showed a particular cell type and 5 some -- some didn't.</p> <p>6 Let me just --</p> <p>7 Q Let me ask you --</p> <p>8 MS. BROWN: Wait, I don't think he's 9 finished.</p> <p>10 MS. PARFITT: No. Let's just make sure.</p> <p>11 THE WITNESS: I think we've said it, but 12 I want to make it clear, right, because we were -- 13 we were really just sort of focused very -- very 14 much on population-based and hospital-based case 15 controls.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q That's right.</p> <p>18 A But I think the fact that there is 19 basically, you know, not a signal from the cohort 20 studies is an inconsistency with studies of 21 another design, so another form of inconsistency.</p> <p>22 I think that -- and what I've tried to 23 say here, right, because I think -- I think some 24 of these Hill criteria, it's hard to -- hard to 25 keep every -- every comment you want under one</p>	<p>1 like that. So I'm -- that's more inconsistency. 2 Q Okay. Dr. Diette, what I'm trying to 3 get at here is, the underbelly, I guess, of your 4 opinions seem to be from your report that cohort 5 studies are inconsistent with the case-control 6 studies, which they themselves are inconsistent 7 because population-based studies and 8 hospital-based studies, some were statistically 9 significant and some were not. Correct?</p> <p>10 A Exactly, yes.</p> <p>11 Q Okay. And that's really the -- the guts 12 of your report, correct?</p> <p>13 MS. BROWN: Objection to the form.</p> <p>14 THE WITNESS: I -- no. I mean, those 15 are two very important points, but I'd say there's 16 a heck of a lot more than that in the report.</p> <p>17 BY MS. PARFITT:</p> <p>18 Q Okay. Did you go through -- let's -- 19 let's talk a little bit about that.</p> <p>20 You described these relative risks of 21 the case-control studies as small, weak -- small 22 and weak, correct?</p> <p>23 A Correct.</p> <p>24 Q Okay. What type of -- those words 25 "small and weak," are those scientific words?</p>
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<p>1 particular heading, and so I've tried to get at 2 this issue here too that if it were consistent 3 that talc caused or was associated with ovarian 4 cancer, I would expect to see it under a variety 5 of circumstances, not just perineal dusting. And 6 so one of the inconsistencies is that, you know, 7 diaphragms and condoms, that we don't see that 8 signal. So I'm just saying that that's an 9 inconsistency. It's the opposite of consistency.</p> <p>10 And I guess too -- I mean just while 11 we're even still on the -- on the types of 12 studies, I mean the Taher study that, I guess, you 13 know, even though it's not published yet, I mean 14 they've got a summary risk for the hospital-based 15 studies which is less than 1.0. Right. So now 16 it's not even just like -- if -- I don't know 17 whether we should like the Taher study or not, but 18 it's out there, right. And so now we've got --</p> <p>19 Q It's out there. It's a piece of the 20 evidence.</p> <p>21 A Yeah, it's something that's out there, 22 so now we've got something that's unpublished from 23 2018 that's got not even a positive risk. I mean, 24 this -- this exercise of going to look and see 25 what's over 1.0, there's a 0.94 or 6 or something</p>	<p>1 A So they're words that my colleagues and 2 I use. I mean, it's a word that Dr. Rothman used 3 when he did his analysis in 2000 and called the 4 summary odds ratio or the risk -- risk of 1.3, he 5 called it weak. I'm not sure whether he's citing 6 a particular definition, but, you know, it -- 7 it's -- there's probably reasons, just like where 8 you talk about a p-value of 0.05 not being the 9 absolute line. I think it's why people have 10 resisted trying to say that it has to be above an 11 exact specific number.</p> <p>12 But I think we can all recognize risks 13 that are large. You know, we know that a risk of 14 10 is a large risk. We know that 20 is a large 15 risk. We know that a relative risk of 1.01, it's 16 got to be tiny, right, because it can't be any 17 smaller than that on that particular scale.</p> <p>18 So somewhere in there we have to use 19 some judgment, and I think if you got a 1.2 or 20 1.3, I don't know who -- I don't know who thinks 21 that's strong. It doesn't make any sense.</p> <p>22 Q Do you agree that having a weak 23 association does not rule out a causal connection?</p> <p>24 MS. BROWN: Objection to the form.</p> <p>25 THE WITNESS: Wait a minute, say it</p>

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<p>1 again because I think --</p> <p>2 BY MS. PARFITT:</p> <p>3 Q Having a weak association would not rule</p> <p>4 out a causal association.</p> <p>5 A That's correct.</p> <p>6 Q All right. Would you also agree that</p> <p>7 while the strength of an association is a</p> <p>8 guideline for drawing an inference of causation,</p> <p>9 there is no specified threshold required?</p> <p>10 MS. BROWN: Objection to the form.</p> <p>11 THE WITNESS: I don't think there's a</p> <p>12 specified threshold. I think it's a gradient,</p> <p>13 right, that you have to use as you're applying</p> <p>14 your judgment about all of the evidence. And that</p> <p>15 when you have a very small risk, you should be</p> <p>16 more concerned about the distorting effects of</p> <p>17 other factors, and if you have a larger risk, you</p> <p>18 can be less worried about those distorting</p> <p>19 factors.</p> <p>20 BY MS. PARFITT:</p> <p>21 Q But you will agree with me under the</p> <p>22 Bradford Hill factors, strong association or weak</p> <p>23 association, neither are necessary for finding</p> <p>24 causality, correct?</p> <p>25 MS. BROWN: Objection to the form.</p>	<p>1 Q Secondhand smoke and lung cancer.</p> <p>2 MR. LOCKE: Objection.</p> <p>3 THE WITNESS: I think really the Surgeon</p> <p>4 General has put it at -- it's either about 1.7 or</p> <p>5 1.9, somewhere in there.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Okay. Let me show you -- I'm sorry.</p> <p>8 1.7 or 1.9.</p> <p>9 Let me show you a study by Kim. And</p> <p>10 it's entitled "Exposure to Secondhand Smoke and</p> <p>11 the Risk of Cancer in Never Smokers." And I'll</p> <p>12 represent that it's in the International Journal</p> <p>13 of Environment, 2018. And this would be a</p> <p>14 meta-analysis by Dr. Kim.</p> <p>15 A Do you know, is it something I cited or</p> <p>16 is this new -- new to me or --</p> <p>17 Q I did not see it in your --</p> <p>18 A Okay. Thank you.</p> <p>19 Q -- list of references.</p> <p>20 In fact, good question. None of the 167</p> <p>21 articles that were in your curriculum vitae did I</p> <p>22 see that you cited in support for your expert</p> <p>23 report; is that correct?</p> <p>24 A That would -- I'm sure that's correct.</p> <p>25 Q Okay. Okay. Do you see that?</p>
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<p>1 THE WITNESS: So there isn't a single</p> <p>2 one of his considerations that all by itself is</p> <p>3 completely necessary, right. It's a -- it's a</p> <p>4 method to pull together a variety of, you know,</p> <p>5 information about the studies. But he -- he</p> <p>6 certainly does give us some guidance about what</p> <p>7 "strong" and "not strong" might mean and the</p> <p>8 implications of that.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q But we can agree sitting here today that</p> <p>11 those general terms, "weak," "small," do not</p> <p>12 dictate whether or not there is causality.</p> <p>13 MS. BROWN: Objection to the form.</p> <p>14 THE WITNESS: They don't dictate it.</p> <p>15 They inform it.</p> <p>16 BY MS. PARFITT:</p> <p>17 Q You mentioned that the -- I want to come</p> <p>18 back to that one in a second.</p> <p>19 Now, you, yourself, have actually done</p> <p>20 secondhand smoke studies, correct?</p> <p>21 A I've done studies that include</p> <p>22 secondhand smoke as a measure.</p> <p>23 Q Okay. What is your understanding of the</p> <p>24 relative risks for secondhand smoke?</p> <p>25 A For what?</p>	<p>1 A I do, yes.</p> <p>2 Q Okay. And if you look in the abstract,</p> <p>3 do you see where the authors determined that the</p> <p>4 relative risks for passive smoke exposure and lung</p> <p>5 cancer in never users was a relative risk rather</p> <p>6 than of 1.2.</p> <p>7 Do you see that? Take a moment.</p> <p>8 A Yeah.</p> <p>9 Q We'll put it on the ELMO.</p> <p>10 A So we're looking at the abstract?</p> <p>11 Q We are, mm-hmm.</p> <p>12 A And saying -- so odds ratio involving</p> <p>13 never smokers with significant exposure to</p> <p>14 secondhand compared to never smokers was 1.163.</p> <p>15 Q Okay. Do you see where it says:</p> <p>16 "Passive smoke exposure and lung cancer in never</p> <p>17 users was a relative risk of 1.245"?</p> <p>18 And we can go ahead and circle that.</p> <p>19 A That's for females?</p> <p>20 Q Yes.</p> <p>21 A For females, yeah, 1.245.</p> <p>22 Q Okay. So we had a 1.245 for females,</p> <p>23 and, I'm sorry, you said a 1.16 for secondhand all</p> <p>24 comers, right?</p> <p>25 A Exactly right.</p>

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<p>1 Q Okay. Let me show you as well the Lv 2 study, and it was a 2015 study. "Risk of 3 All-Cause Mortality Associated With Secondhand 4 Smoke."</p> <p>5 A Do I have that?</p> <p>6 Q I'm getting that for you. Hold on one 7 second.</p> <p>8 A Oh, I'm sorry. I thought I --</p> <p>9 Q No, no worries.</p> <p>10 A I thought I missed it.</p> <p>11 (Diette Exhibit No. 23 was marked 12 for identification.)</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Do you have that in front of you?</p> <p>15 A Yes. So this is by Lv?</p> <p>16 Q That's right.</p> <p>17 A The last name, yeah.</p> <p>18 Q And now again, looking at the abstract 19 section, does it report the relative risk for 20 never smokers exposed to secondhand smoke versus 21 unexposed?</p> <p>22 A So the pooled relative risk for never 23 smokers compared to those -- is that -- so that 24 first sentence of the results --</p> <p>25 Q That's right --</p>	<p>1 associations that are implementing those types of 2 programs to reduce secondhand smoke for fear of 3 lung cancer have accepted this type of data, 1.1, 4 1.2, for purposes of making those policy 5 decisions?</p> <p>6 A So I don't know --</p> <p>7 MR. LOCKE: Objection.</p> <p>8 THE WITNESS: Oops, sorry.</p> <p>9 Like, I don't -- I don't know what 10 inputs they -- they used, and I don't -- I'm not 11 saying they wouldn't, but I don't know whether 12 they would use these risks to drive that or not.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Okay. You would agree with me, though, 15 that the risk of 1.1 and 1.2 are very -- are 16 actually less than the relative risks that we've 17 seen with talcum powder products and ovarian 18 cancer, correct?</p> <p>19 MS. BROWN: Objection to the form.</p> <p>20 THE WITNESS: So it's less than the 21 pooled odds ratio from the case-control studies in 22 the meta-analyses.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q Okay. Now, you yourself have done 25 studies on indoor particulate matter, correct?</p>
<p>1 A -- 1.18?</p> <p>2 Q Correct. And they then report in the 3 all-cause mortality and RR was 1.23 for 4 cardiovascular diseases. Do you see that?</p> <p>5 A Yeah, although -- exactly right, yep.</p> <p>6 Q Okay. Now, there have been -- and this 7 is work that you do as well, correct?</p> <p>8 MS. BROWN: Objection to the form.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q You do research work on secondhand 11 smoke?</p> <p>12 A I have done, yeah, and still do.</p> <p>13 Q Okay. And are you aware that in the 14 United States and in other countries, there have 15 been health programs implemented to reduce 16 secondhand smoke based upon relative risks, like 17 you've just seen, 1.1, 0.8, 1.2?</p> <p>18 MR. LOCKE: Objection.</p> <p>19 THE WITNESS: I mean, I don't know if 20 the programs were based on these studies, and 21 there certainly have been higher relative risks 22 before. But I -- but I agree that there are 23 programs to reduce secondhand smoke exposure.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Okay. And would you agree today that</p>	<p>1 A Correct.</p> <p>2 Q Okay. In particular, you published a 3 study with McCormack and Diette on common 4 household exposures?</p> <p>5 A I've published a bunch with her, so I 6 don't know which -- which particular one that is.</p> <p>7 Q All right. It's Common -- it's Common 8 Household Products, 2008." McCormack is the lead 9 article -- author.</p> <p>10 A What journal?</p> <p>11 Q It is in the Environmental Res, 12 Environmental --</p> <p>13 A Environmental research.</p> <p>14 Q -- Research. And it's dated February 15 2008. And take a minute to --</p> <p>16 (Diette Exhibit No. 24 was marked 17 for identification.)</p> <p>18 BY MS. PARFITT:</p> <p>19 Q Do you have that in front of you?</p> <p>20 A I do.</p> <p>21 Q Okay. Now, if you look at the first 22 page under the abstract, about the third line 23 down -- excuse me, fourth line down, it says: 24 "There is a public health imperative to 25 characterize indoor source as being less</p>

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<p>1 extensively characterized" -- excuse me. I'm 2 sorry.</p> <p>3 "There is a public health imperative to 4 characterize indoor sources of PM" -- I assume 5 that's particulate matter?</p> <p>6 A Correct.</p> <p>7 Q -- "with this vulnerable population to 8 enable effective intervention strategies."</p> <p>9 Did I read that correctly?</p> <p>10 A You did.</p> <p>11 Q Okay. You were the lead -- one of the 12 lead authors in that study?</p> <p>13 A Yeah, I was, by position, the senior 14 author, but I was the head of the -- the study 15 that produced this paper.</p> <p>16 Q All right. And what is -- and do you 17 have an opinion with regard to what the relative 18 risks are for indoor ambient particulate matter?</p> <p>19 A For what?</p> <p>20 Q For --</p> <p>21 A You mean qualitative, like what 22 illnesses they cause or --</p> <p>23 Q Yes, with regard -- I believe you 24 studied a bit of asthma, so I believe it would be 25 the relative risk of indoor particulates and</p>	<p>1 MS. BROWN: Objection to the form. You 2 need the disease to link the --</p> <p>3 MS. PARFITT: Lung. Lung.</p> <p>4 MS. BROWN: You mean cancer? Objection 5 to the form.</p> <p>6 THE WITNESS: Anyway, I can't answer it. 7 You need more in the sentence or the question in 8 order for me to be able to answer it.</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Okay. Are there any -- fair enough. 11 Are there any reported relative risks 12 between indoor particulate matter and lung 13 disease?</p> <p>14 MS. BROWN: Objection to the form.</p> <p>15 THE WITNESS: I'd want to be super 16 careful about what we're saying is lung disease, 17 because some people might think that that means 18 the risk of developing a particular lung disease, 19 and others might mean the worsening of an existing 20 disease or a lung function abnormality.</p> <p>21 BY MS. PARFITT:</p> <p>22 Q Okay. Do you know what the relative 23 risk is between indoor particulate matter and 24 asthma?</p> <p>25 A The risk of developing asthma?</p>
<p style="text-align: center;">Page 371</p> <p>1 asthma?</p> <p>2 A Well, there's not one single way to 3 answer that, right. So this -- this paper doesn't 4 look like the one that's actually quantified it, 5 right. We have other ones that look at the 6 increase in, say, symptoms, for example, or 7 exacerbations per very small increment in 8 particulate matter.</p> <p>9 So like, I think if you -- if you're 10 looking at our studies, you're not going to find a 11 relative risk that's, like -- that's analogous to 12 these where this is the relative risk of an 13 outcome for secondhand smoke, yes/no. Ours are 14 reported not by that but by little tiny increments 15 or decrements of -- of particle concentrations.</p> <p>16 Q Do you know what the relative risk is 17 for indoor ambient air?</p> <p>18 A That's --</p> <p>19 MS. BROWN: Objection to the form.</p> <p>20 THE WITNESS: That's not a full 21 question.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Do you -- is there a relative risk for 24 exposure to the lungs in indoor particulate 25 matter?</p>	<p style="text-align: center;">Page 373</p> <p>1 Q Correct.</p> <p>2 A It's not --</p> <p>3 MS. BROWN: Objection to the form.</p> <p>4 THE WITNESS: Sorry. It's not known.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q It's not known.</p> <p>7 A Not known.</p> <p>8 Q It's not been published.</p> <p>9 A Well, I can't say there's not a single 10 paper out there, but at this point the -- a 11 summary of the evidence is that we can't say for 12 sure that it's -- that it causes asthma.</p> <p>13 Q Have you reviewed in any of the 14 literature published data with regard to airborne 15 particles -- indoor airborne particles and asthma 16 as to what the relative risk may be?</p> <p>17 MS. BROWN: Objection to form.</p> <p>18 THE WITNESS: Relative risk of?</p> <p>19 BY MS. PARFITT:</p> <p>20 Q Relative risk of asthma from exposure to 21 indoor air particulate.</p> <p>22 MS. BROWN: Objection to the form.</p> <p>23 THE WITNESS: So I -- I've read a ton of 24 stuff about it. I mean if you've got a particular 25 article, I'm happy to read it and interpret it.</p>

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<p>1 But as of this point, I think we -- should I 2 explain or just -- 3 BY MS. PARFITT: 4 Q No, I -- all I really want to know in 5 the interest of time is whether or not you have 6 reviewed any of the scientific literature data 7 that reports what the relative risk is for indoor 8 particulate matter and the risk of getting asthma? 9 MS. BROWN: Objection to the form. 10 BY MS. PARFITT: 11 Q And if you haven't, that's fine. 12 A Oh, my gosh, no, it's not that. I have. 13 I just don't think that you can answer that 14 question. I'm not saying there's not some study 15 out there that may estimate a risk for that, but 16 it isn't established. Like, at this point, we 17 cannot say in 2019 that indoor particulate matter 18 causes asthma. 19 And -- and you have to say more to the 20 sentence. So let's just talk about like adults 21 living in the city. We can't say that. You 22 know -- you know, there's -- there's studies that 23 have looked at the relative risk of indoor 24 cooking, which is predominantly particulate 25 matter, in developing countries, but even the</p>	<p>1 meter cubed. It may be from a particular source, 2 like traffic-related pollution or not. 3 I mean there's more to it. There's not 4 just like some summary that -- that I can -- I can 5 make. Maybe you can find somebody that can just 6 say particulate matter has this risk of causing 7 asthma. I haven't seen it. 8 But it's not there aren't like a whole 9 bunch of studies looking at the relationship 10 between indoor and outdoor particulate matter and 11 lung disease as both, you know, developing newly 12 and worsening the existing ones. 13 BY MS. PARFITT: 14 Q Right. Does secondhand smoke cause lung 15 cancer? 16 MS. BROWN: Objection to the form. 17 THE WITNESS: It seems -- it seems that 18 that -- that has been established. 19 (Counsel conferring.) 20 BY MS. PARFITT: 21 Q Okay. Let's talk a little bit -- 22 THE WITNESS: We're just doing a time 23 check. I'm just trying -- do you know roughly how 24 much we -- 25 THE VIDEOGRAPHER: Five hours, 34</p>
<p style="text-align: center;">Page 375</p> <p>1 asthma evidence is not fully developed. 2 So it's just -- it's one of those things 3 where you may find a paper that has an estimate, 4 but it hasn't been fully established yet. 5 Q All right. Do you -- I understand it's 6 not fully established, but are there reported 7 relative risks from the scientific literature? 8 MS. BROWN: Objection. 9 THE WITNESS: I'm sure there are. 10 MS. BROWN: Objection -- 11 THE WITNESS: I'm sure there are, but -- 12 BY MS. PARFITT: 13 Q There are. Do you know what they are? 14 MS. BROWN: Objection to the form. 15 THE WITNESS: Oh, my gosh. 16 BY MS. PARFITT: 17 Q If you know. If -- like, do you know 18 there is a range of relative risks between 19 exposure to indoor particulate matter and asthma? 20 MS. BROWN: Objection to the form of the 21 question. 22 THE WITNESS: I've got to see what 23 you're talking about, because I think that when 24 you ask it that way, there may be some estimate 25 based on a particular number of micrograms per</p>	<p style="text-align: center;">Page 377</p> <p>1 minutes. 2 THE WITNESS: So a little under an hour 3 and a half? Did you guys want to do a -- 4 MS. PARFITT: A quick break here? Sure. 5 THE WITNESS: -- or a break here or 6 wait? 7 MS. PARFITT: No, that's fine. We can 8 take a quick one now. That's fine. 9 THE VIDEOGRAPHER: The time is 3:50 p.m. 10 We're going off the record. 11 (Recess.) 12 THE VIDEOGRAPHER: The time is 4:10 p.m. 13 We're back on the record. 14 We're on the record, by the way. 15 (A discussion was held off the record.) 16 (Diette Exhibit Nos. 25 and 26 17 were marked for identification.) 18 BY MS. PARFITT: 19 Q Are you ready, Dr. Diette? 20 A I am. Thank you. 21 Q Very good. 22 THE VIDEOGRAPHER: Microphone, Counsel. 23 BY MS. PARFITT: 24 Q Dr. Diette, I -- I asked you a little 25 bit earlier about the relative risk for secondhand</p>

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<p>1 smoke and -- and lung cancer.</p> <p>2 And what I would like you to do is --</p> <p>3 and I apologize, I don't have copies of this -- so</p> <p>4 I'm showing you what is the report of the Surgeon</p> <p>5 General, I believe it was back in 2006, "The</p> <p>6 Health Consequences of Involuntary Exposure to</p> <p>7 Tobacco Smoke, A Report of the Surgeon General."</p> <p>8 Have you read that in the past?</p> <p>9 A So definitely not every word, but I've</p> <p>10 read big chunks of it.</p> <p>11 Q Okay. I figured with your work you may</p> <p>12 have.</p> <p>13 A Yeah.</p> <p>14 Q All right. Let me direct your attention</p> <p>15 to --</p> <p>16 MS. PARFITT: And I apologize to all, so</p> <p>17 you have to look on the camera -- on the screen.</p> <p>18 MS. BROWN: Okay. So just for the</p> <p>19 record, we don't have copies of this, and so I</p> <p>20 will object to the fact that we have no context or</p> <p>21 ability to look at the document ourselves.</p> <p>22 MS. PARFITT: All right.</p> <p>23 BY MS. PARFITT:</p> <p>24 Q And again, Doctor, you've reviewed this</p> <p>25 report, correct, in the past?</p>	<p>1 Q That's all right.</p> <p>2 -- is related to secondhand smoke and</p> <p>3 lung cancer?</p> <p>4 MS. BROWN: Objection to the form.</p> <p>5 THE WITNESS: It looks like it there. I</p> <p>6 remember there's other numbers in there as well,</p> <p>7 but I mean, I remember it being 1-point something</p> <p>8 and --</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Does that refresh my memory?</p> <p>11 MS. BROWN: Well, let him finish,</p> <p>12 please.</p> <p>13 THE WITNESS: I think there's somewhere</p> <p>14 else in there where there's other estimates, but</p> <p>15 still not like -- not sky high. Still less than</p> <p>16 2.0.</p> <p>17 BY MS. PARFITT:</p> <p>18 Q But you don't disagree with the Surgeon</p> <p>19 General's conclusion that the pooled evidence</p> <p>20 indicates a 20 to 30 percent increase in the risk</p> <p>21 of lung cancer from secondhand smoke exposure</p> <p>22 associated with living with a smoker, correct?</p> <p>23 MR. LOCKE: Objection.</p> <p>24 MS. BROWN: Objection. He doesn't have</p> <p>25 the document, he can't review it.</p>
<p style="text-align: center;">Page 379</p> <p>1 A In the past, and I've read parts of it,</p> <p>2 but as you know, I mean it's a humongous --</p> <p>3 Q It is big.</p> <p>4 A -- document, and so some parts</p> <p>5 weren't -- weren't for me.</p> <p>6 Q All right. I want to focus your</p> <p>7 attention on the conclusions of the Surgeon</p> <p>8 General's report.</p> <p>9 And 1: "The evidence is sufficient to</p> <p>10 infer a causal relationship between secondhand</p> <p>11 smoke exposure and lung cancer among lifetime</p> <p>12 nonsmokers. This conclusion extends to all</p> <p>13 secondhand smoke exposure, regardless of location.</p> <p>14 "2. The pooled evidence that indicates"</p> <p>15 -- sorry -- "the pooled evidence indicates a 20 to</p> <p>16 30 percent" -- that would be a 1.2 or 1.3 relative</p> <p>17 risk -- "increase in the risk of lung cancer from</p> <p>18 secondhand smoke exposure associated with a</p> <p>19 smoker."</p> <p>20 Did I read that correctly?</p> <p>21 A You did.</p> <p>22 Q And is that what the -- are those the</p> <p>23 numbers, 1.2 and 1.3, the relative risks that the</p> <p>24 Surgeon General has concluded is --</p> <p>25 A Um -- I'm sorry.</p>	<p style="text-align: center;">Page 381</p> <p>1 BY MS. PARFITT:</p> <p>2 Q Are you disputing that conclusion?</p> <p>3 MS. BROWN: Objection. He has no basis</p> <p>4 to do it, he doesn't have the document.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Are you disputing that, Doctor?</p> <p>7 A I would --</p> <p>8 MR. LOCKE: Objection.</p> <p>9 THE WITNESS: I would say it fits with</p> <p>10 what I understood to be true at the time that that</p> <p>11 was published.</p> <p>12 BY MS. PARFITT:</p> <p>13 Q Fair enough. Thank you. I appreciate</p> <p>14 that.</p> <p>15 Dr. Diette, is it fair that -- to say</p> <p>16 that we don't have, and you've not reviewed, any</p> <p>17 Johnson -- Johnson & Johnson specific epidemiology</p> <p>18 with regard to a study of just Johnson & Johnson</p> <p>19 Baby Powder?</p> <p>20 MS. BROWN: Objection to the form.</p> <p>21 THE WITNESS: That is correct.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Okay. And so what we rely on, and what</p> <p>24 you've relied on, rather, is data and</p> <p>25 epidemiological science on all comers, all brands,</p>

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<p>1 correct?</p> <p>2 MS. BROWN: Objection to the form.</p> <p>3 MR. LOCKE: Objection.</p> <p>4 THE WITNESS: I -- I wouldn't</p> <p>5 characterize it exactly that way. I mean I would</p> <p>6 say that I can't really sort between different</p> <p>7 brands based on the epidemiologic literature, but</p> <p>8 whatever all brands is, I don't -- you know, I</p> <p>9 don't know what that represents.</p> <p>10 BY MS. PARFITT:</p> <p>11 Q And would it be fair then if one product</p> <p>12 that contained -- one product, talcum powder</p> <p>13 product contained asbestos, and another did not,</p> <p>14 that would result in a conclusion that would draw</p> <p>15 it towards the null? Is that fair?</p> <p>16 MS. BROWN: Objection to the question.</p> <p>17 THE WITNESS: I don't understand that.</p> <p>18 BY MS. PARFITT:</p> <p>19 Q Okay.</p> <p>20 A I mean I understand the idea of drawing</p> <p>21 something to the null. I just don't understand --</p> <p>22 Q Sure.</p> <p>23 A -- what preceded that.</p> <p>24 Q If you have a product like Johnson &</p> <p>25 Johnson, and you -- and it has a carcinogen in it,</p>	<p>1 BY MS. PARFITT:</p> <p>2 Q Okay. When you say it doesn't change</p> <p>3 the totality of the evidence that we have</p> <p>4 available for us, isn't it true that the presence</p> <p>5 of a carcinogen, like asbestos in talcum powder</p> <p>6 products, supports the biological -- biologically</p> <p>7 plausible mechanism for association between talcum</p> <p>8 powder products and ovarian cancer?</p> <p>9 MS. BROWN: Objection to the form of the</p> <p>10 question.</p> <p>11 THE WITNESS: I -- I'd say no. And for</p> <p>12 reasons, if you want them, or just leave it at no.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Well, you've testified that asbestos is</p> <p>15 a carcinogen. Correct?</p> <p>16 A Correct.</p> <p>17 Q All right. And the fact that asbestos</p> <p>18 might be in the talcum powder product does not</p> <p>19 impact your opinions with regard to the increased</p> <p>20 biologically plausible mechanism for talc to cause</p> <p>21 ovarian cancer.</p> <p>22 MS. BROWN: Objection to the form. Are</p> <p>23 you talking about a Johnson & Johnson product?</p> <p>24 MS. PARFITT: Just generally.</p> <p>25 MS. BROWN: Objection to the form.</p>
<p style="text-align: center;">Page 383</p> <p>1 and you lump it together with other products that</p> <p>2 are not infected or contaminated with asbestos,</p> <p>3 what does that do to the overall relative risk --</p> <p>4 A Oh.</p> <p>5 Q -- when studying that product?</p> <p>6 MS. BROWN: Objection to the incomplete</p> <p>7 hypothetical.</p> <p>8 THE WITNESS: So concept and reality,</p> <p>9 right. So the concept would be, if you knew that</p> <p>10 there were enough asbestos that led to an exposure</p> <p>11 that was enough in order to cause a disease from</p> <p>12 one product, and it was pooled with another</p> <p>13 product that didn't have that same amount or</p> <p>14 didn't have any asbestos but you knew that there</p> <p>15 was enough to cause disease, then it would -- it</p> <p>16 would do exactly what you're saying, is it would</p> <p>17 move it towards -- towards one.</p> <p>18 The reality is there wouldn't be any</p> <p>19 impact whatsoever because the epidemiology already</p> <p>20 takes into account whatever those brands are, and</p> <p>21 so it doesn't change the totality of the evidence</p> <p>22 that we have available for us.</p> <p>23 So concept, I mean you could sort of</p> <p>24 imagine what you're saying to be true, but</p> <p>25 reality, no.</p>	<p style="text-align: center;">Page 385</p> <p>1 THE WITNESS: It -- it does not.</p> <p>2 As you ask these things, I'm trying to</p> <p>3 figure out if I'm supposed to explain what I'm</p> <p>4 saying or is --</p> <p>5 MS. BROWN: No, you answered the</p> <p>6 question.</p> <p>7 THE WITNESS: Okay.</p> <p>8 MS. BROWN: She'll ask you another one</p> <p>9 if she has one.</p> <p>10 THE WITNESS: Okay. All right.</p> <p>11 BY MS. PARFITT:</p> <p>12 Q Does Johnson & Johnson sell baby powder</p> <p>13 that's 99 percent asbestos and 1 percent</p> <p>14 fragrance?</p> <p>15 MS. BROWN: Objection to the form of the</p> <p>16 question.</p> <p>17 THE WITNESS: If they do, I'm not aware</p> <p>18 of that.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q Okay. And if I understand, the presence</p> <p>21 of asbestos in a talcum powder product does not in</p> <p>22 your mind impact the biologically plausible</p> <p>23 mechanism for talcum powder products to cause</p> <p>24 ovarian cancer.</p> <p>25 MR. LOCKE: Objection.</p>

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<p>1 THE WITNESS: No, there's not enough 2 information in what you said there. 3 BY MS. PARFITT: 4 Q What would you need? 5 A So I would need a couple of things. One 6 is I would need to have some estimate of what the 7 dose would be, and some assurance from somewhere, 8 which I don't have, that that represented a dose 9 that was sufficient to cause -- and by dose, I'm 10 talking about dose of asbestos, right -- that that 11 was a sufficient dose to cause ovarian cancer. 12 And based on what I've seen, I can't 13 make that link. I can't -- I haven't seen 14 anything that says that there's a plausible 15 concentration or dose that people would be exposed 16 to that links to anything I can find in the 17 epidemiologic literature about how much, if any, 18 it would take in order to -- to cause ovarian 19 cancer. And what I -- should I finish? 20 Q Mm-hmm, yeah, finish. 21 A Okay. I'm sorry. 22 Q I'm trying not to interpret you. 23 A No, no, you're not. I didn't mean -- I 24 didn't think you were. 25 Q So doing better.</p>	<p>1 And then I think if you -- if you pair 2 that with more modern studies, if you take like 3 the Reid study from Australia, you take women who 4 worked, you know, in and around a crocidolite 5 mine, they certainly had enough exposure to get 6 asbestos-related diseases, but they don't get 7 ovarian cancer. 8 And so I think that the -- you know, the 9 sum total of all that just -- it doesn't make 10 sense that just knowing the fact that there's some 11 particle -- even if it's true, that some particle 12 of asbestos is going to be enough to cause 13 disease. 14 Q Okay. Have you -- have you read -- I 15 didn't see it in your reliance list -- Reid, 2012? 16 A I have two Reeds, I think, and if I only 17 listed one, I meant to include two. 18 Q Yeah, you only listed 2011 Reid. You 19 didn't list 2012 Reid. 20 A I meant -- so I don't know which one is 21 there. There's one from Whitnum, which is the 22 study of the women that -- you know, that I was 23 just describing, and a separate one is -- it's 24 basic -- basically like a meta-analysis or a 25 reanalysis of the ovarian cancer and asbestos</p>
<p style="text-align: center;">Page 387</p> <p>1 A I didn't think you were. 2 So I mean there's more, right. I mean 3 so the -- if you look at IARC and what those 4 studies represented, they represent for the most 5 part -- and by IARC, I'm talking about IARC and 6 ovarian cancer and asbestos -- you know, mostly 7 circumstances that aren't typical of American 8 women. For example, so women in Europe who were 9 working at a time and place when there was 10 different forms and lots of asbestos that may have 11 been sufficient to cause other asbestos-related 12 diseases. 13 So if you -- if those -- if those 14 findings are absolutely accurate -- you know, you 15 take away the issue of misclassification or 16 anything else -- if they're absolutely accurate, 17 you've got a relative risk in the neighborhood of 18 like 1.75 or something like that. 19 So I'm not saying that's not an 20 important risk, but it's not a huge risk, right? 21 So we're taking heavy industrial exposure to get 22 to a 1.75. I haven't seen anything that could 23 tell me that anything we're talking about here 24 could possibly rise to the level of heavy 25 industrial exposure.</p>	<p style="text-align: center;">Page 389</p> <p>1 literature. 2 Q Okay. Do you recall from your reading 3 that the scientists in Reid 2012 determined that 4 childhood exposure to asbestos was associated with 5 an increased risk of cancer mortality which was 6 3.5 times greater than the general population? Do 7 you recall those numbers? 8 A I don't, but cancer mortality to -- 9 MS. BROWN: Objection. 10 THE WITNESS: Can you tell me which -- 11 because I don't remember which year links to which 12 Reid study. 13 BY MS. PARFITT: 14 Q That was the 2012 that I was speaking 15 of. 16 A No, I understand that. I heard the 17 year, but I don't know what the title is. 18 Q Oh, the title is "All-cause mortality in 19 cancer incidence among adults exposed to blue 20 asbestos during childhood." 21 A I think that's a third study then, 22 because I think the two I'm referring to are -- 23 are two different ones. 24 Q All right. So did you read the 2012 or 25 that just wasn't one you read?</p>

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<p>1 MS. BROWN: Well, Counsel, can you show 2 it to him and he'll tell you?</p> <p>3 MS. PARFITT: Sure.</p> <p>4 THE WITNESS: I don't know if either of 5 the ones that I cite, you know, that I'm familiar 6 with are from 2012, but I don't think I read the 7 one that you're talking about.</p> <p>8 BY MS. PARFITT:</p> <p>9 Q Okay. From looking at your curriculum 10 vitae and the studies you cited, you cited Reid -- 11 actually you cited three Reids. You cited Reid 12 2011, you cited Reid 2008, and you cited Reid 13 2009. The study that you did not cite was Reid 14 2012.</p> <p>15 A That -- that sounds believable. That 16 makes sense.</p> <p>17 Q All right. So for purposes of the 18 opinions in your report, you did not rely on Reid 19 2012, is that fair?</p> <p>20 MS. BROWN: Objection to the form of the 21 question.</p> <p>22 THE WITNESS: I -- I don't think I'm 23 familiar with that study.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Okay. Fair enough.</p>	<p>1 THE WITNESS: I'm not disagreeing with 2 you, I think that's the language they use, but 3 they -- they used their -- their strongest -- 4 their strongest grading.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q How many of the IARC studies that formed 7 the basis for IARC's conclusion that asbestos 8 causes ovarian cancer was there information 9 concerning the exposure and the dose?</p> <p>10 A So I think you said something that you 11 didn't mean to, because I think you said how many 12 of the IARC studies that IARC considered. I 13 think -- did you mean how many of the underlying 14 studies that IARC considered?</p> <p>15 Q Correct.</p> <p>16 A Okay. And so there's at least five that 17 I remember that were like sort of factory worker 18 type studies, and then I think there were a couple 19 of more. I'd have to go back, though, to look and 20 see what -- what they had about dose, if anything. 21 My -- I'm thinking like at least for the World 22 War II era ones, they probably didn't have good 23 measures at all, you know, if any.</p> <p>24 Q Okay. Let me show you what I will have 25 marked as Exhibit 27.</p>
<p style="text-align: center;">Page 391</p> <p>1 Are you able to share with us, 2 Dr. Diette, what the minimum dose of asbestos is 3 necessary in order to cause an ovarian cancer?</p> <p>4 MS. BROWN: Objection to the form of the 5 question.</p> <p>6 THE WITNESS: I haven't seen that 7 published. I can tell you that at least in one of 8 those Whitnum studies that women were exposed to 9 as much as 40 fiber/cc years cumulatively of 10 crocidolite, and -- and that apparently wasn't 11 enough to cause ovarian cancer. But I didn't see, 12 you know, good measurements or estimates from 13 the -- the more historic to say what the exposures 14 were.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. IARC looked at the issue of 17 asbestos and ovarian cancer, correct?</p> <p>18 A They did.</p> <p>19 MS. BROWN: Form.</p> <p>20 THE WITNESS: Sorry.</p> <p>21 BY MS. PARFITT:</p> <p>22 Q All right. IARC concluded that asbestos 23 causes ovarian cancer.</p> <p>24 MS. BROWN: Form.</p> <p>25 MR. LOCKE: Objection.</p>	<p style="text-align: center;">Page 393</p> <p>1 (Diette Exhibit No. 27 was marked 2 for identification.)</p> <p>3 MR. ROSEN: 26, for the record, is the 4 Surgeon General's report, which we'll supplement 5 with a paper copy.</p> <p>6 THE WITNESS: The same one -- the same 7 one that we were talking about before the 8 secondhand smoke or involuntary smoke?</p> <p>9 MR. ROSEN: Right, so there won't be a 10 26 in the file.</p> <p>11 THE WITNESS: Got you.</p> <p>12 BY MS. PARFITT:</p> <p>13 Q Let me show you what we have marked as 14 Exhibit 27.</p> <p>15 Do you have that in front of you?</p> <p>16 A I have the "Arsenic, Metals, Fibres and 17 Dusts," 100C IARC.</p> <p>18 Q That's correct, that's the right one.</p> <p>19 Okay. Let me direct your attention to 20 the bottom of page 253.</p> <p>21 Do you have that?</p> <p>22 A 253?</p> <p>23 Q 253, correct.</p> <p>24 A I do.</p> <p>25 Q All right. And it says: "An</p>

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<p>1 examination of the association between asbestos 2 and ovarian cancer was not undertaken by the IOM," 3 and then it has a 2000 -- a 2006 date. Correct? 4 A Yes. 5 Q Okay. Now, before we get to Table 2.8, 6 what I want you to do is turn over to page 256. 7 All right. And again, directing your 8 attention to the far right column. Are you there? 9 And it starts with, "Working group"? 10 A I am. I'm sorry, I'm distracted because 11 I think there's -- 12 MS. BROWN: It has a weird -- 13 THE WITNESS: -- there's like a font 14 issue or something, like somebody's printer didn't 15 have the right -- 16 BY MS. PARFITT: 17 Q That might have been ours. I apologize. 18 Not ideal circumstances. 19 All right. Do you see where it says, 20 "The working group"? 21 A I do. 22 Q All right. "The working group noted 23 that a causal association between exposure to 24 asbestos and cancer of the ovary was clearly 25 established based on five strongly positive cohort</p>	<p>1 Q Okay. Do you see where the working 2 group of IARC considered all of the data, and they 3 made a determination that there were not, at the 4 bottom, sufficient -- they ruled out the 5 possibility that there may have been a 6 misdiagnosis. 7 Do you see that? 8 MS. BROWN: Objection to the form. 9 THE WITNESS: I see that they've -- that 10 they reached that -- that conclusion. 11 BY MS. PARFITT: 12 Q Okay. And that's different than the 13 conclusion you raised in your report, correct? 14 A Well, it's different -- 15 MS. BROWN: Objection. 16 THE WITNESS: It is different, yes. 17 BY MS. PARFITT: 18 Q All okay. Right. Let's go back to 19 again page 253. 20 And you will see it references a table, 21 Table 2.8. Do you see that on the top of 254? 22 A Okay. 23 Q Okay. Got that. 24 Okay. Let me show you what we'll have 25 marked as Exhibit 28.</p>
<p style="text-align: center;">Page 395</p> <p>1 mortality studies of women with heavy occupational 2 exposure to asbestos." 3 Do you see that? 4 A I do. 5 Q Okay. And then if you go -- and then it 6 cites those studies. 7 Do you see that? 8 A I do. 9 Q And go down to where it starts: "The 10 working group carefully considered the 11 possibilities that cases of peritoneal 12 mesothelioma may have been misdiagnosed as ovarian 13 cancer, and that these contributed to the observed 14 excesses." 15 Do you see that? 16 A I do. 17 Q Okay. Did I read that correctly? 18 A Yes. 19 Q Okay. In your report you stated that it 20 was your belief that perhaps the results were 21 limited by virtue of the fact that there may have 22 been misdiagnosis between peritoneal mesothelioma 23 and ovarian cancer cases. 24 Do you remember writing that? 25 A I do.</p>	<p style="text-align: center;">Page 397</p> <p>1 (Diette Exhibit No. 28 was marked 2 for identification.) 3 BY MS. PARFITT: 4 Q Okay. Diette Exhibit 28, if you will. 5 There you go. 6 MS. PARFITT: And, Counsel, I have a 7 copy for you. 8 MS. BROWN: Thank you. 9 MS. PARFITT: Of course. 10 Sorry, guys. I'm going to need one. 11 I'm sorry. I'll give you this one later. 12 BY MS. PARFITT: 13 Q Okay. I will represent to you that that 14 is -- that is Table 2.8, which is referenced in 15 the IARC report on page 253 and 254. 16 And it says: "Epidemiological studies 17 of asbestos exposure and ovarian cancer," and then 18 in parens, "and for comparison, lung cancer and 19 mesothelioma." 20 Do you see that? 21 A I do. 22 Q All right. Look over at the first study 23 mentioned there, the Atkinson study from 1982. 24 A Mm-hmm. 25 Q All right. Do you see that the relative</p>

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<p>1 risk for ovarian cancer and lung cancer, for 2 ovarian cancer it was 2.75, and for lung cancer it 3 was 2.41. Do you see that?</p> <p>4 A I do.</p> <p>5 Q Okay. Then move down to the Wignall and 6 Fox study. It's a 1982 study. Do you see that?</p> <p>7 A I don't -- oh, yeah, the next one down, 8 yeah.</p> <p>9 Q Okay, yeah. Do you see that the 10 relative risk for ovarian cancer were 2.13, and 11 for lung cancer 2.73?</p> <p>12 A Correct.</p> <p>13 Q And let's move down to Pira in 2005. Do 14 you see where the relative risk for ovarian cancer 15 were 2.61 and for lung cancer 2.82?</p> <p>16 A I do.</p> <p>17 Q All right. And then let's move to 18 Magnani, a 2008 study.</p> <p>19 All right. Do you see -- and this is 20 one of the studies that the working group of IARC 21 looked at. They determined that the relative risk 22 for -- not determined -- they indicated that the 23 relative risk for ovarian cancer on the Magnani 24 study was 2.27, and for lung cancer 2.20.</p> <p>25 Do you see that?</p>	<p>1 BY MS. PARFITT: 2 Q Sure. 3 A In one of your questions a little while 4 back, you were asking me to agree that you were 5 reading fine, and you were for the relative risks. 6 Q Yeah. 7 A None of these are relative risks, 8 though. They're SMRs and SIRs. So just a 9 slightly different -- 10 Q I appreciate that. Thank you. Thank 11 you for the correction. Thank you. 12 Next question. Do you intend to give an 13 opinion that fibrous talc is a carcinogen? 14 MS. BROWN: Form. 15 THE WITNESS: I'm not sure I understand 16 what fibrous talc is. 17 BY MS. PARFITT: 18 Q Okay. Let me direct your attention 19 to -- we'll go back to the IARC on ovarian 20 cancer -- or, excuse me, IARC on asbestos. 21 Paragraph 1.1 on page 219. 22 Are you there? 23 A Paragraph 1, yes. 24 Q Yes. Okay. Do you see where after it 25 has IARC, '73, and USGS, 2001, it states: "The</p>
<p style="text-align: center;">Page 399</p> <p>1 A I do.</p> <p>2 Q All right. And let's go on to the 3 Ferrante study. Do you see that?</p> <p>4 MS. BROWN: Where -- where are you?</p> <p>5 MS. PARFITT: On the last page.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Do you see that? It's on the last page, 8 Ferrante, 2007. Do you see that?</p> <p>9 A I do.</p> <p>10 Q Okay. And the relative risk for ovarian 11 cancer was 1.43, and for lung cancer it was 1.17.</p> <p>12 Now, I'll represent to you, Doctor -- 13 or, Dr. Diette, is it fair to say that this 14 Table 2.8 of epidemiological exposures, asbestos 15 exposure and ovarian cancer formed part of the 16 bases for IARC's decision in their IARC report 17 that asbestos -- or ovarian -- asbestos causes 18 ovarian cancer?</p> <p>19 A I assume so, yeah.</p> <p>20 Q Okay. All right. Let's talk a little 21 bit -- do you intend to give an opinion in this 22 case that fibrous talc is a carcinogen?</p> <p>23 MS. BROWN: Objection to the form.</p> <p>24 THE WITNESS: I just want to correct 25 something real quick.</p>	<p style="text-align: center;">Page 401</p> <p>1 conclusions reached in this monograph about 2 asbestos and its carcinogenic risks apply to these 3 six types of fibres wherever they are found, and 4 that includes talc containing asbestiform fibres." 5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q All right. Do you intend to give an 8 opinion in this case that talc containing 9 asbestiform fibers can cause ovarian cancer?</p> <p>10 MS. BROWN: Objection to the form. 11 That's different than the original question.</p> <p>12 MS. PARFITT: It is.</p> <p>13 MS. BROWN: Did you mean it to be?</p> <p>14 MS. PARFITT: No. I mean the new 15 question.</p> <p>16 MS. BROWN: Okay.</p> <p>17 THE WITNESS: So, because to me, the way 18 I have read this before and then also again now, I 19 think, although I can't know what they were 20 intending, but this to me says basically talc with 21 asbestos in it -- what we would agree is talc with 22 asbestos in it, as opposed to something else. 23 And I don't think you need the "talc 24 containing." I think you could say anything 25 containing asbestos, you know, could potentially</p>

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<p>1 increase carcinogenic risk if there's enough of a 2 dose.</p> <p>3 BY MS. PARFITT:</p> <p>4 Q Okay. Did you see anywhere in the IARC 5 working group document that we've been talking 6 about that the working group determined that there 7 was a causal association between asbestos and 8 ovarian cancer, but it depended on the dose?</p> <p>9 MR. LOCKE: Objection.</p> <p>10 MS. BROWN: Objection to the form of the 11 question.</p> <p>12 THE WITNESS: I don't recall.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Okay. You've worked on secondhand smoke 15 studies, correct?</p> <p>16 A Yes.</p> <p>17 Q How do you determine the dose for those?</p> <p>18 MS. BROWN: Objection to the form.</p> <p>19 THE WITNESS: So the dose of secondhand 20 smoke?</p> <p>21 BY MS. PARFITT:</p> <p>22 Q Mm-hmm.</p> <p>23 A So it depends, right. So at the moment, 24 it -- so it depends upon which kind of study. And 25 when you say "you," do you mean you in the broad</p>	<p>1 sufficient dose. It's not a measurement of dose. 2 It's an indicator of sufficient -- sufficient 3 exposure to be linkable to things like lung 4 cancer.</p> <p>5 The same kind of question for being 6 around coworkers, and so a yes/no to that has been 7 sufficient.</p> <p>8 In our other studies, we -- we get more 9 precise so that we'll -- and use a variety of 10 overlapping methods. So one is to -- to query -- 11 if it's a child study, to query the parent about 12 the number of cigarettes that are smoked per day 13 in the home, and with a very elaborate procedure 14 of asking not only the person who is answering the 15 questionnaire but about all the other people that 16 are in and out of the house that day, so we get a 17 count of cigarettes.</p> <p>18 We also use different types of 19 particulate matter monitors, and we've established 20 that you can estimate about 1 microgram per meter 21 cubed of particulate matter per cigarette smoked 22 in the home. So we've got an estimate that way.</p> <p>23 We -- we collect nicotine and cotinine 24 from a variety of sources, so we've collected 25 hair, saliva, urine, and blood. And so depending</p>
<p style="text-align: center;">Page 403</p> <p>1 sense or me, Greg Diette?</p> <p>2 Q Well, Greg Diette has been doing 3 research on secondhand smoke, and you, Greg 4 Diette, has indicated that dose is important to 5 you. So what I'd like to know is how you measure 6 the dose in your secondhand smoke.</p> <p>7 A Yeah, so a lot of different --</p> <p>8 MS. BROWN: Objection. Dose is 9 important to him as it relates to secondhand 10 smoke, is that what the question is asking?</p> <p>11 MS. PARFITT: No.</p> <p>12 BY MS. PARFITT:</p> <p>13 Q I was just reiterating that you, 14 Dr. Diette, have done several secondhand smoke 15 studies, correct?</p> <p>16 A Yes.</p> <p>17 Q Okay. And how do you measure the dose 18 in the studies that you have performed?</p> <p>19 A So different ways, depending upon the 20 studies. So for some studies, it's simple enough 21 to ask, especially if you're talking about an 22 adult, whether or not they've had secondhand smoke 23 exposure from their parents, often broken down by 24 whether it's mother or father. And for some -- 25 some studies, that's a sufficient indicator of a</p>	<p style="text-align: center;">Page 405</p> <p>1 upon which study and which population, we can 2 estimate something about dose based on what 3 their -- what their sort of biomarker is.</p> <p>4 Q All right. How much have you -- 5 understanding those metrics, for lack of a better 6 word, how much smoke does a patient need to 7 actually inhale?</p> <p>8 MS. BROWN: For what?</p> <p>9 BY MS. PARFITT:</p> <p>10 Q In order to determine whether or not 11 they have been impacted by secondhand smoke.</p> <p>12 MS. BROWN: Objection to the form.</p> <p>13 THE WITNESS: That's a complicated 14 question, I guess, because we don't -- at least in 15 our studies, we don't measure -- like I don't know 16 what that means, like how much they inhale. I can 17 tell you, you know, what their absorbed dose is of 18 nicotine, right, which has some implication about 19 how much they might have inhaled, but I don't 20 relate that to like sort of a volume of smoky air 21 or something like that, the way that you might if 22 you were doing like a smoke machine, you know, 23 study.</p> <p>24 So it's really -- it's implied, right. 25 If you find it in the urine and the blood, they</p>

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<p>1 inhaled it enough in order to get that particular 2 fluid level high enough to -- for you to measure 3 it. And same with saliva and same with hair. 4 BY MS. PARFITT: 5 Q Okay. 6 A I left one out too. We also measure 7 airborne nicotine, and so that's another 8 indicator. So I was talking about cotinine that's 9 measured in -- in the people, but we also have 10 nicotine matches, and we'll measure nicotine 11 directly in the environment. 12 Q Based upon -- I meant to ask this 13 earlier. Based upon your study of ovarian cancer 14 and talcum powder products that you've done for 15 Johnson & Johnson, have you made any of these 16 recommendations to Johnson & Johnson as to how -- 17 what kind of study they could perform in order to 18 ascertain dose? 19 MS. BROWN: What? 20 MR. LOCKE: Objection. 21 MS. BROWN: Objection to the form of the 22 question. 23 BY MS. PARFITT: 24 Q Let me ask it again. 25 A Oh, no, I heard it. I was just -- I</p>	<p>1 couple-year study and, you know, tens of thousands 2 of dollars spent doing it? 3 MR. LOCKE: Objection. 4 MS. BROWN: Objection to the form. 5 There are multiple questions in there, Counsel. 6 Can you rephrase? 7 BY MS. PARFITT: 8 Q Do you understand the question? 9 A The -- the last part you said -- I'll 10 try to paraphrase it so we know we're talking 11 about the same thing. I have not -- I have not 12 done anything to inform the medical community 13 about the findings so far from my -- you know, 14 from my work on these cases. 15 Q Do you intend to do so? 16 A I don't have any active intention to do 17 it right now. 18 Q Okay. Do you intend to have your report 19 peer -- published? 20 A It's not in the right format for that. 21 Q Okay. Do you intend to do any 22 meta-analysis of your work? 23 MS. BROWN: Objection to the form. 24 THE WITNESS: Not on that -- not on that 25 topic.</p>
<p style="text-align: center;">Page 407</p> <p>1 guess the broad answer is no. I mean I haven't 2 made any recommendations about studies to Johnson 3 & Johnson for -- for anything. 4 Q Okay. And the reason I ask is, your 5 work appears to be reviewing and surveying the 6 literature for Johnson & Johnson in order to give 7 litigation opinions on whether or not talcum 8 powder products can cause ovarian cancer. 9 MR. LOCKE: Objection. 10 MS. BROWN: Objection to the form of the 11 question. 12 BY MS. PARFITT: 13 Q Correct? 14 A Can you say it again? 15 Q Sure. 16 A I spaced out a little bit. 17 Q No, that's all right. It's getting late 18 in the day. 19 Your work for Johnson & Johnson appears 20 to be surveying the literature, preparing 21 litigation reports, and then giving testimony in a 22 court that the Johnson & Johnson product is safe. 23 And my question for you is, what have 24 you done in order to inform the scientific 25 community of the results of your -- your now</p>	<p style="text-align: center;">Page 409</p> <p>1 BY MS. PARFITT: 2 Q Okay. And if you saw with regard to 3 Health Canada, they have given -- they gave 4 individuals an opportunity to comment on the work 5 that they did and present that to them. 6 You saw that, correct? 7 A Yes. 8 Q Okay. So you had an opportunity as 9 someone who's reviewed the literature to write to 10 Health Canada and inform them of your concern 11 about the manner in which they conducted their 12 study. Fair? 13 MS. BROWN: Objection to the form, lacks 14 foundation. 15 THE WITNESS: I guess. I actually don't 16 know who they're asking. Like I haven't looked to 17 see whether they're looking for people outside of 18 Canada. 19 I don't even know who they are. I mean 20 the only reason I've heard of Health Canada is 21 because of this litigation and because something, 22 you know, opportunistic came up. But otherwise, I 23 mean I wouldn't be talking to Health Canada about 24 anything or reading whatever they've written. 25 BY MS. PARFITT:</p>

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<p>1 Q Something opportunist came up. Is that 2 the fact that you are being engaged in this 3 litigation -- 4 A No. 5 MS. BROWN: Objection -- 6 BY MS. PARFITT: 7 Q -- as an expert witness? 8 MS. BROWN: Objection to the form. 9 THE WITNESS: Oh, no, I just see -- I 10 think the reason that I have it in front of me is 11 because it -- it seemed to help -- help 12 plaintiffs' experts to be able to say something 13 else about this -- this story. And if -- if it 14 had said something else, then I probably wouldn't 15 even have heard about it. 16 BY MS. PARFITT: 17 Q Okay. This story, Dr. Diette, is about 18 women who are dying of ovarian cancer -- 19 MS. BROWN: Careful -- what's the 20 question? 21 BY MS. PARFITT: 22 Q -- having been exposed to talcum powder 23 products. 24 Do you understand that? 25 MR. LOCKE: Objection.</p>	<p>1 MS. BROWN: Objection. 2 THE WITNESS: The only studies I've seen 3 are the ones that -- I think that were cited by -- 4 by IARC with -- if that's what we're talking 5 about, is like women who were about to have 6 surgery for some other reason and -- and different 7 things placed either in their uterus or vagina, 8 although not necessarily talc. I mean all kinds 9 of things, you know, carbon particles, 10 radiolabeled particles, different things that 11 aren't talc. 12 (Counsel conferring.) 13 BY MS. PARFITT: 14 Q So sitting here today, is it your 15 testimony that you have not reviewed or seen in 16 the medical literature that particles of talc can 17 migrate to the ovaries, lymph nodes, of a woman's 18 body? 19 MS. BROWN: Objection to the form of the 20 question. 21 MR. LOCKE: Objection. 22 THE WITNESS: So -- so the study would 23 be one where somebody applied talc to the perineum 24 and then demonstrated that it migrated from there 25 to the ovaries or into some lymph node somewhere?</p>
<p style="text-align: center;">Page 411</p> <p>1 MS. BROWN: Objection to the form of the 2 question. 3 THE WITNESS: I understand the general 4 notion is about ovarian cancer and whether there 5 is or is not a risk from talcum powder. 6 BY MS. PARFITT: 7 Q I appreciate that. 8 All right, Dr. Diette, do you agree that 9 there is scientific evidence published in the 10 peer-reviewed journal that talcum powder products 11 can migrate from the vagina to the peritoneal 12 capacity up through the ovaries? 13 MS. BROWN: Objection to the form. 14 MR. LOCKE: Objection. 15 THE WITNESS: From the perineum? 16 BY MS. PARFITT: 17 Q From the perineum. 18 MS. BROWN: Objection. 19 THE WITNESS: I have not seen that. 20 BY MS. PARFITT: 21 Q Okay. Do you have -- have you seen in 22 your review of the literature that talcum powder 23 products can migrate from the vagina to the 24 ovaries? 25 MR. LOCKE: Objection.</p>	<p style="text-align: center;">Page 413</p> <p>1 BY MS. PARFITT: 2 Q That's right. 3 A I have not seen that study. 4 Q Okay. You've read the Schildkraut 5 study, correct? 6 A Yes. 7 Q Okay. Do you agree with the authors of 8 the Schildkraut study that chronic inflammation 9 resulting from the use of exposure to baby powder, 10 whether through inhalation or through a 11 transvaginal route, may lead to an increased risk 12 of ovarian cancer? 13 MR. LOCKE: Objection. 14 MS. BROWN: Objection to the form of the 15 question. 16 THE WITNESS: I've read the study. I'd 17 like to see whether that's in the introduction or 18 the conclusion. 19 BY MS. PARFITT: 20 Q Okay. Let me show you Schildkraut. 21 A Because it's certainly not a conclusion 22 of their study. 23 (Diette Exhibit No. 29 was marked 24 for identification.) 25 MS. BROWN: Do you guys want a number on</p>

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<p>1 this?</p> <p>2 MS. PARFITT: Sure. What number are we 3 up to?</p> <p>4 MS. BROWN: Oh, 29. I'm sorry. It's 5 there. My bad.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q Do you have that in front of you, 8 Doctor?</p> <p>9 A I do.</p> <p>10 Q Okay. And if I can direct your 11 attention to pages 14, 16.</p> <p>12 A Got you.</p> <p>13 Q Do you have that?</p> <p>14 Do you see where the authors state: 15 "Lung inhalation of powder could be a biologically 16 plausible mechanism for the association between 17 nongenital powder use and increased EOC risk, 18 particularly non-serous EOC."</p> <p>19 Do you see that?</p> <p>20 A I do. It's the top of the first column 21 in the -- the rest of the incomplete paragraph.</p> <p>22 Q Okay. Do you see that?</p> <p>23 A I do.</p> <p>24 Q Okay. Do you agree with that?</p> <p>25 MR. LOCKE: Objection.</p>	<p>1 MR. LOCKE: Objection.</p> <p>2 BY MS. PARFITT:</p> <p>3 Q Okay. Do you agree that there is 4 reliable scientific literature in the 5 peer-reviewed studies to support that it is 6 biologically plausible for talc products to 7 migrate from the vagina to the ovaries following 8 perineal application?</p> <p>9 A I'm not aware of that study that has 10 shown that.</p> <p>11 Q Have you seen the Penninkilampi study?</p> <p>12 A Oh.</p> <p>13 MS. BROWN: Objection.</p> <p>14 THE WITNESS: Yes, I have.</p> <p>15 BY MS. PARFITT:</p> <p>16 Q Okay. Why don't we take a look at that. 17 Let's pull it up, and we'll make it 18 Exhibit No. 30.</p> <p>19 (Diette Exhibit No. 30 was marked 20 for identification.)</p> <p>21 BY MS. PARFITT:</p> <p>22 Q Right here. And if I may, Doctor, let 23 me direct your attention to the discussion section 24 of Penninkilampi on page 45.</p> <p>25 A Page 45?</p>
<p>1 THE WITNESS: Only -- well, no. Only in 2 the broadest sense that lots of things could be, 3 but not because there's any evidence to show that 4 inhalation of powder is a way to get to the 5 ovaries.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q All right. So you dispute that 8 inhalation of talcum powder products can cause 9 ovarian cancer. Is that your testimony?</p> <p>10 A Inhalation?</p> <p>11 Q Inhalation.</p> <p>12 A I haven't seen any evidence that it can. 13 I mean there's not affirmative evidence to say 14 that it absolutely can't, but there's no evidence 15 that there's been talcum powder inhaled, leading 16 to other -- other diseases along the way, and I 17 haven't seen any study that has shown that it can 18 migrate from the lungs to the ovaries. And so -- 19 I mean people could say that, but it's not based 20 on -- on studies.</p> <p>21 Q Does the fact that talcum powder 22 products can be inhaled support a biologically 23 plausible mechanism for talcum powder products to 24 cause ovarian cancer?</p> <p>25 A No.</p>	<p>1 Q 45.</p> <p>2 A Yep.</p> <p>3 Q Do you have that?</p> <p>4 A I'm there, yep.</p> <p>5 Q Okay. It says: "The present 6 meta-analysis" -- and it is meta-analysis, 7 correct?</p> <p>8 A Yeah, part of this study is a 9 meta-analysis.</p> <p>10 Q "The present meta-analysis reports a 11 positive association between perineal talc use and 12 ovarian cancer, specifically of the serous and 13 endometrioid -- and endometrioid histology site -- 14 subtypes. The mechanism by which perineal talc 15 use may increase the risk of ovarian cancer is 16 uncertain. It has been previously proposed that 17 talc as a foreign body may ascend from the vagina 18 through to the uterine tubes and instigate a 19 chronic inflammatory response, which may 20 predispose to the development of ovarian cancer."</p> <p>21 Did I read that correctly?</p> <p>22 A You did.</p> <p>23 Q Okay. Do you agree with that?</p> <p>24 MR. LOCKE: Objection.</p> <p>25 MS. BROWN: Objection to the form.</p>

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<p>1 THE WITNESS: So -- so I agree with a 2 lot of this, right. So I agree that the mechanism 3 is uncertain. Right. I agree that it has been 4 previously proposed 20 years ago by the citation 5 that they have that that may ascend from the 6 vagina, and instigate a chronic inflammation 7 response.</p> <p>8 They don't cite anything more modern 9 than that one from 20 years ago, though. And 10 where it talks about it may be mutagenic and 11 promote carcinogenesis --</p> <p>12 BY MS. PARFITT:</p> <p>13 Q Correct.</p> <p>14 A -- I don't -- I don't think that's well 15 supported either.</p> <p>16 Q Is migration of talc a biologically 17 plausible mechanism by which talc can reach the 18 ovaries?</p> <p>19 MS. BROWN: Objection to the form.</p> <p>20 MR. LOCKE: Objection.</p> <p>21 THE WITNESS: If it were true, it could 22 be supportive of that. But I don't see any -- any 23 evidence that it's true.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Is biological plausibility essential for</p>	<p>1 inflammatory hypothesis, as repeated exposure 2 would induce a longer period of chronic 3 inflammation, and therefore should increase the 4 predisposition to the development of ovarian 5 cancer."</p> <p>6 Did I read that correctly?</p> <p>7 A You did.</p> <p>8 Q All right. Do you agree with that 9 statement, that chronic inflammation as a 10 biologically plausible hypothesis could induce 11 carcinogenicity?</p> <p>12 MR. LOCKE: Objection.</p> <p>13 MS. BROWN: Counsel, are you 14 intentionally not reading the rest of that 15 paragraph?</p> <p>16 MS. PARFITT: No, I -- I'm getting 17 there.</p> <p>18 MS. BROWN: Okay.</p> <p>19 MS. PARFITT: Yeah.</p> <p>20 THE WITNESS: Well, I disagree with the 21 fact that the small difference between 3600, plus 22 or minus, lifetime applications supports a -- an 23 inflammatory theory, because that's got nothing 24 too do with inflammation. It's really just a -- a 25 total number of applications.</p>
<p style="text-align: center;">Page 419</p> <p>1 causality?</p> <p>2 A No, it's -- it's one important criterion 3 to consider.</p> <p>4 Q Does biological plausibility mean it 5 must be proved?</p> <p>6 MS. BROWN: Objection.</p> <p>7 THE WITNESS: And I assume we're talking 8 about in the context of a Bradford Hill?</p> <p>9 BY MS. PARFITT:</p> <p>10 Q Correct.</p> <p>11 A Yeah, so -- so the answer is, no, it 12 doesn't have to be proved.</p> <p>13 Q Look at the lower right-hand corner of 14 that article.</p> <p>15 MS. BROWN: Are we done with that 16 paragraph, Counsel?</p> <p>17 MS. PARFITT: We are. Thank you very 18 much, yeah.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q And if you will go down to the lower 21 right, it starts with "We also found."</p> <p>22 A Okay.</p> <p>23 Q Do you see that?</p> <p>24 Okay. It says: "This finding also 25 supports the chronic" -- I'm sorry -- "chronic</p>	<p style="text-align: center;">Page 421</p> <p>1 BY MS. PARFITT:</p> <p>2 Q Perhaps I can simplify my answer. Do 3 you have an opinion as to whether or not chronic 4 inflammation can be a biologically plausible 5 method for promoting carcinogenesis?</p> <p>6 MS. BROWN: Objection to the form.</p> <p>7 THE WITNESS: In -- in all kinds of 8 cancer or ovarian cancer?</p> <p>9 BY MS. PARFITT:</p> <p>10 Q In ovarian cancer.</p> <p>11 A So I -- I don't think there's strong 12 evidence to support that.</p> <p>13 Q Is there evidence at all?</p> <p>14 MS. BROWN: Let him finish.</p> <p>15 THE WITNESS: So not much. I mean 16 there's -- I know that folks have looked at, you 17 know, whether NSAIDS and aspirin, whether that use 18 would lead to a limitation in risk, and it seems 19 like the -- the findings are kind of mixed. And 20 sometimes aspirin in a particular dose is 21 protective and aspirin of another dose is not. 22 That NSAIDS are sometimes protective, but mostly 23 not.</p> <p>24 Since preparing my report, I saw 25 Dr. Shih -- Shih's report talking about the stick</p>

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<p>1 cells, like these precursor cells, and -- and at 2 least, you know, from histologic specimens, not 3 seeing evidence of inflammation. And I haven't 4 really seen much that -- that would confirm that 5 there's a link between chronic inflammation. 6 BY MS. PARFITT: 7 Q What I'm asking you is, based upon your 8 review, Dr. Diette, have you seen anything in the 9 peer-reviewed literature that there are 10 biologically plausible mechanisms of talc's 11 carcinogenicity demonstrated by chronic 12 inflammation from migration of the talc to the 13 ovaries? 14 MS. BROWN: Objection. I don't 15 understand that question. 16 MR. LOCKE: Objection. 17 THE WITNESS: Would you -- 18 BY MS. PARFITT: 19 Q The question -- let me rephrase it. 20 A Okay. 21 Q Is there -- are there studies in the 22 peer-reviewed literature that support an 23 association of inflammation and increased risk of 24 ovarian cancer? 25 MS. BROWN: Objection to the form, asked</p>	<p>1 BY MS. PARFITT: 2 Q T-A-H-E-R. 3 A Oh. 4 Q 2018. 5 A Sorry, I was saying Taher. 6 Q No, no problem. 7 A But I don't know how you -- 8 Q You could be right on that. Probably 9 are. 10 A I don't know. 11 I did. 12 Q Do you see where Taher authors found 13 that there was biologically plausible evidence of 14 inflammation from talc exposure? 15 MS. BROWN: Objection. Counsel, can we 16 see the article if you want to ask him about it? 17 MR. LOCKE: Objection. 18 BY MS. PARFITT: 19 Q You've read the article. Do you know 20 the answer to that? 21 MS. BROWN: But it's not a memory test. 22 MS. PARFITT: No, it's not, but perhaps 23 he can answer. I didn't ask you the question. 24 BY MS. PARFITT: 25 Q Do you know the answer to that?</p>
<p>1 and answered. 2 BY MS. PARFITT: 3 Q Is there something in the literature? 4 MS. BROWN: Objection. 5 BY MS. PARFITT: 6 Q Not whether there is a lot or a little. 7 Is there anything in the peer-reviewed literature 8 that you've seen that supports an association 9 between inflammation and an increased risk of 10 ovarian cancer? 11 MS. BROWN: Objection to the form. 12 THE WITNESS: I've seen the paper where 13 C-reactive protein in the serum popped out of 14 dozens of different markers of inflammation and 15 predated the diagnosis of ovarian cancer. 16 I guess I haven't really seen something 17 that shows that chronic inflammation in the 18 ovaries is -- is a precursor to ovarian cancer or 19 that talc induces that particular chronic 20 inflammation that would in turn lead to cancer. 21 BY MS. PARFITT: 22 Q Have you read Taher? You've read the 23 Taher study, correct? 24 MR. LOCKE: Objection. 25 THE WITNESS: How do you spell it?</p>	<p>1 A Well, the paper wasn't about that, so I 2 don't -- I don't remember whether there was sort 3 of a preamble thing, but they -- they weren't 4 really analyzing that. They were doing a 5 meta-analysis, you know, sort of combining the epi 6 studies. So, I mean, I don't remember what their 7 statement was, but when you -- 8 Q All right. Did you -- 9 A I'm sorry, I just want to say, but if 10 you say that they found it, by finding it, I don't 11 think they demonstrated it or it was a finding 12 from their study per se. 13 Q Okay. Have you read Langseth, 2008? 14 A Langseth, 2008? 15 Q Correct. 16 A Is that a meta-analysis? 17 Q Correct. 18 A Yes. 19 Q All right. And do you see where the 20 Langseth authors also found migration and -- and 21 concluded that there was chronic inflammation that 22 was biologically plausible? 23 MS. BROWN: No, I -- I object. If 24 you're going to quote articles -- 25 BY MS. PARFITT:</p>

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<p>1 Q Do you remember?</p> <p>2 MS. BROWN: -- I would request the</p> <p>3 article.</p> <p>4 MS. PARFITT: I can do that.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Do you know, Doctor?</p> <p>7 A I don't remember what they said.</p> <p>8 (Counsel conferring.)</p> <p>9 MS. PARFITT: Doctor, if we can take a</p> <p>10 quick break here --</p> <p>11 THE WITNESS: Sure.</p> <p>12 MS. PARFITT: -- right now, so maybe I</p> <p>13 can --</p> <p>14 THE WITNESS: Yeah, it's a good time.</p> <p>15 MS. PARFITT: -- shorten things.</p> <p>16 THE VIDEOGRAPHER: The time is 4:59 p.m.</p> <p>17 We're going off the record.</p> <p>18 (Recess.)</p> <p>19 THE VIDEOGRAPHER: The time is 5:12 p.m.</p> <p>20 and we're back on the record.</p> <p>21 MS. PARFITT: I apologize.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Dr. Diette, and I apologize, I have only</p> <p>24 one copy that isn't marked up, so we're going to</p> <p>25 have to put this and substitute it on the -- on</p>	<p>1 He doesn't have the article.</p> <p>2 MS. PARFITT: That's fine.</p> <p>3 MS. BROWN: And he's never read it.</p> <p>4 BY MS. PARFITT:</p> <p>5 Q Look at the abstract, first sentence.</p> <p>6 It says: "Perineal talc use is associated with</p> <p>7 ovarian carcinoma in many case-control studies.</p> <p>8 Such talc may migrate to pelvic organs and</p> <p>9 regional lymph nodes, with both clinical and legal</p> <p>10 significance."</p> <p>11 Did I read that correctly?</p> <p>12 A Yes.</p> <p>13 Q All right. Would it be -- I believe you</p> <p>14 had some concerns about the Heller study that we</p> <p>15 talked about earlier because it involved some</p> <p>16 unexposed -- what you testified were unexposed</p> <p>17 women.</p> <p>18 MS. BROWN: Objection to the form.</p> <p>19 THE WITNESS: Correct, women who</p> <p>20 reported not being perineal talc users.</p> <p>21 BY MS. PARFITT:</p> <p>22 Q Right. Okay. You understand in this</p> <p>23 study that what Drs. McDonald and Godleski were</p> <p>24 doing were looking at particles in exposed women.</p> <p>25 MS. BROWN: No, he doesn't understand</p>
<p style="text-align: center;">Page 427</p> <p>1 the ELMO, if I may. We've done pretty good with</p> <p>2 copies all day today.</p> <p>3 So here we go.</p> <p>4 MR. ROSEN: This will be Exhibit 31.</p> <p>5 (Diette Exhibit No. 31 was marked</p> <p>6 for identification.)</p> <p>7 BY MS. PARFITT:</p> <p>8 Q All right. Dr. Diette, this is an</p> <p>9 article from Ultrastructural Pathology, and it's</p> <p>10 entitled "Correlative polarizing light and</p> <p>11 scanning electron microscopy for the assessment of</p> <p>12 talc in pelvic region lymph nodes."</p> <p>13 Do you see that?</p> <p>14 A I do.</p> <p>15 Q And the lead author is Dr. McDonald,</p> <p>16 along with Cramer and Godleski, and others.</p> <p>17 Do you see that?</p> <p>18 A I do.</p> <p>19 Q All right. This is published in 2019.</p> <p>20 Have you had an opportunity to review</p> <p>21 this article?</p> <p>22 A I have not seen this one.</p> <p>23 Q Okay. I just have one question about</p> <p>24 it. And if --</p> <p>25 MS. BROWN: Well, I'm going to object.</p>	<p style="text-align: center;">Page 429</p> <p>1 that because he doesn't have the study and he</p> <p>2 hasn't read it. I object. It's not fair.</p> <p>3 THE WITNESS: I honestly have no idea</p> <p>4 what they've done.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Okay. Well, do you dispute that talc</p> <p>7 particles can migrate to the pelvic organs and</p> <p>8 regional lymph nodes?</p> <p>9 A I don't -- I don't know.</p> <p>10 MR. LOCKE: Asked and answered.</p> <p>11 BY MS. PARFITT:</p> <p>12 Q You don't know. You don't know. You</p> <p>13 don't know one way or another?</p> <p>14 MS. BROWN: Objection, misstates his</p> <p>15 private -- his prior testimony.</p> <p>16 THE WITNESS: Migrate from where to</p> <p>17 where? From --</p> <p>18 BY MS. PARFITT:</p> <p>19 Q It says right here: "Talc may migrate</p> <p>20 to pelvic organs and regional lymph nodes."</p> <p>21 MS. BROWN: Right, but he can't --</p> <p>22 THE WITNESS: Oh, I saw the "to," but I</p> <p>23 don't see the "from."</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Does it make a difference to you?</p>

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<p style="text-align: right;">Page 430</p> <p>1 MS. BROWN: Of course. 2 BY MS. PARFITT: 3 Q If it's from the vaginal area to the 4 ovaries and the lymph nodes, does that make a 5 difference whether -- 6 MR. LOCKE: Objection. 7 MS. BROWN: Objection to the form, lacks 8 foundation, calls for speculation about a document 9 he told you he's never read. 10 MR. LOCKE: Does the witness have a 11 copy? 12 MS. BROWN: No. That's the objection. 13 MS. PARFITT: Tom, we didn't -- we only 14 have one copy of it. 15 MR. LOCKE: I think you need to disclose 16 to the witness that three of these authors are 17 paid experts, et cetera -- 18 MS. PARFITT: Tom, Tom, Tom, Tom. 19 MR. LOCKE: Come on. 20 MS. BROWN: No, but to be fair, you 21 guys, if you want to ask him questions, he's got 22 to look at it. I'm going to take it off the ELMO 23 and give it to him if you're going to continue 24 asking him questions. 25 BY MS. PARFITT:</p>	<p style="text-align: right;">Page 432</p> <p>1 You had testified earlier that you 2 disagree with Health Canada when they state that 3 talc can migrate to the ovaries; is that correct? 4 MR. LOCKE: Objection. 5 MS. BROWN: Objection. Misstates prior 6 testimony. I don't even think he said that. 7 BY MS. PARFITT: 8 Well, let me ask you. In the Health 9 Canada report, they discuss the fact that it is 10 biologically plausible for talc to migrate to the 11 ovaries and then cause an inflammatory process. 12 Do you agree or disagree with that? 13 MR. LOCKE: Objection. 14 MS. BROWN: Objection. Lacks 15 foundation. Do you want to show him where they 16 said that? 17 THE WITNESS: I don't remember their 18 statement about that. 19 BY MS. PARFITT: 20 Q You don't. Okay. 21 How about this statement. Go down to -- 22 I believe it's -- one, two, three -- the third 23 paragraph. Do you see that? It starts with 24 "While." 25 A No.</p>
<p style="text-align: right;">Page 431</p> <p>1 Q I'm not going to ask him any more 2 questions on it, Doctor. 3 A Okay. Thank you. 4 Q All right. Let me show you -- 5 MR. LOCKE: Come on. Give him -- if 6 you're going to give him -- if you're going to ask 7 him about it -- 8 MR. TISI: You're not even on record. 9 MS. PARFITT: Tom, it was just -- 10 MS. BROWN: Hey, hey, hey, guys. It's 11 the end of the day. 12 MS. PARFITT: Okay. Let's don't -- 13 MS. BROWN: Let's get through this. 14 (Diette Exhibit No. 32 was marked 15 for identification.) 16 BY MS. PARFITT: 17 Q 32. Let me show you what's been marked 18 as Plaintiffs' Exhibit 32. 19 I need a copy. There you go. Sorry. 20 A Thank you. 21 Q Okay. You previously testified that you 22 -- take a look at it. You read this before, the 23 FDA letter 2014? 24 A I've seen this. 25 Q Okay. Very good.</p>	<p style="text-align: right;">Page 433</p> <p>1 Q No? 2 A Oh, I'm on a different page. 3 Q I'm sorry. Page 5. Page 5. 4 A Okay. 5 Q Okay. "While there exists no direct 6 proof of talc and ovarian carcinogenesis, the 7 potential for particles to migrate from the 8 perineum into the vagina to the peritoneal cavity 9 is indisputable." 10 Do you see that? 11 A I do. 12 Q Okay. Do you agree with the FDA? 13 MS. BROWN: Objection to the form. 14 THE WITNESS: So there's no citation for 15 that. I don't know how they get -- I mean I don't 16 know why they make that statement, and I -- it 17 certainly doesn't seem to be indisputable, because 18 there -- several of the articles that we've looked 19 at today and others say it's not clear what the 20 mechanism is or the biologic plausibility. So 21 it's -- it's obviously disputable, at the very 22 least, but there's no citation, so it's hard to 23 know how to -- how to process this. 24 BY MS. PARFITT: 25 Q If this is the FDA's position with</p>

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<p style="text-align: center;">Page 434</p> <p>1 regard to whether or not talc can migrate, do you 2 dispute that? 3 MS. BROWN: Objection. Misstates the 4 document. 5 THE WITNESS: I don't -- I don't dispute 6 that they said it obviously, because it's right 7 here, but there's just no citation for it, and 8 there's no information that tells who in 9 particular thinks that. 10 BY MS. PARFITT: 11 Q Well, the Food and Drug Administration 12 is our regulatory body here in the United States, 13 correct? 14 A It is one. 15 MR. LOCKE: Objection. 16 BY MS. PARFITT: 17 Q All right. Would you agree that 18 dissemination of information that is accurate and 19 truthful is -- is something that they would 20 probably take quite seriously? Would you agree? 21 MS. BROWN: Objection. 22 THE WITNESS: I -- I hope so. 23 BY MS. PARFITT: 24 Q Right. And would you agree that the FDA 25 would not be disseminating information about the</p>	<p>1 think my answer was along the lines of I haven't 2 seen a study that shows that that's true. 3 BY MS. PARFITT: 4 Q We talked about Schildkraut. We talked 5 about Schildkraut, didn't we? 6 A Yeah, they didn't show that either, 7 though. 8 Q When you say they didn't show it, have 9 they opined in medical -- or let me ask you this 10 question. I see the disconnect. 11 Is there evidence contained in 12 peer-reviewed scientific articles wherein it is 13 stated that talcum powder products can migrate to 14 the ovaries? 15 MS. BROWN: Objection. 16 MR. LOCKE: Objection. 17 MS. BROWN: Misstates everything we've 18 looked at and his testimony. 19 THE WITNESS: I think there's been 20 opinions of different people in different articles 21 that are both supportive and not supportive of 22 that statement. 23 BY MS. PARFITT: 24 Q All right. So you've seen scientific writers who have said talc can migrate to the</p>
<p style="text-align: center;">Page 435</p> <p>1 potential for particulates to migrate from the 2 perineum, the vagina to the peritoneal cavity, and 3 say it's indisputable if they didn't have some 4 evidence? 5 MS. BROWN: Objection. Calls for 6 speculation. 7 MR. LOCKE: Objection. 8 THE WITNESS: I don't know why they 9 wrote it. I just think it would be odd to find 10 that the FDA knew this, and it's not out there 11 generally otherwise. I mean I don't -- I don't 12 know what they considered. 13 BY MS. PARFITT: 14 Q When you say it's not out there 15 generally, we talked today about several 16 peer-reviewed articles that have in fact talked 17 about talcum powder part -- particles migrating 18 to the ovaries, have we not? 19 MS. BROWN: Objection. We have not. 20 THE WITNESS: No, I was going to say, I 21 mean, you've said that a lot, but I mean -- but we 22 haven't looked at a study that shows that. I mean 23 we've talked about whether -- whether or not talc 24 applied to the perineum has been shown to migrate 25 to the ovaries, and a bunch of questions back, I</p>	<p>1 ovaries, and you've seen scientific articles that 2 say that's more questionable. Is that fair? 3 MS. BROWN: Objection. Not fair. 4 Misstates prior -- 5 THE WITNESS: It's sort of fair, but I 6 can't find anybody who's actually shown that it's 7 true. I mean, you know, people may write that, 8 but I mean I haven't seen a study that's shown 9 that you can actually apply talc to the perineum 10 and then find it in the ovaries. 11 BY MS. PARFITT: 12 Q Okay. Let me show you what we'll have 13 marked as exhibit -- oh, thank you. 14 (Counsel conferring.) 15 BY MS. PARFITT: 16 Q It's the end of the day, and we are 17 running out of copies, Doctor. 18 Let me show you -- 19 (Diette Exhibit No. 33 was marked 20 for identification.) 21 MR. ROSEN: Exhibit 33. 22 MS. PARFITT: Beg your pardon? 33? 23 THE WITNESS: This one says 32 on it. 24 MR. ROSEN: Ah, you're correct. 25 BY MS. PARFITT:</p>

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<p>1 Q So I'm going to share this with you, 2 and -- actually, if we could put it on the ELMO, 3 and then I will give it to you so I can at least 4 identify it for counsel.</p> <p>5 Is that fair?</p> <p>6 A Yeah. We will see how it goes.</p> <p>7 Q All right. Let me show you -- it is 8 marked September 30th, 2004, and I will represent 9 that it is to Bill Ashton from Richard Zazenski, 10 and it's a Luzenac document.</p> <p>11 MS. BROWN: What? I'm going to object 12 on form and foundation.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Okay. Can you see that, Doctor? I 15 don't want to strain your eyes too much.</p> <p>16 MS. BROWN: No, we need to give him -- 17 he's never seen it. He hasn't reviewed it. His 18 opinions are not based on it. If you want to ask 19 him questions about it, he needs to hold it and 20 look at it.</p> <p>21 BY MS. PARFITT:</p> <p>22 Q I'm going to give it to you. I'm going 23 to let you hold it in one moment.</p> <p>24 Dr. Diette, this is a document I will 25 represent that's dated September 30, 2004, and</p>	<p>1 Take a moment and take a look at that, to eyeball 2 that.</p> <p>3 MS. BROWN: Take as long as you need to 4 inform your response --</p> <p>5 MS. PARFITT: It's a one-page document.</p> <p>6 MR. LOCKE: No. This -- this is a 7 document that he hasn't seen before.</p> <p>8 MS. PARFITT: That's correct.</p> <p>9 MR. LOCKE: Why don't we go off the 10 record.</p> <p>11 MS. PARFITT: It's one page, Doctor.</p> <p>12 MS. BROWN: Right, and that's just fair.</p> <p>13 MS. MILLER: If you're going to ask him 14 questions about what you just threw out there --</p> <p>15 MS. BROWN: That's fine. That's fine, 16 but you understand there's no foundation. He's 17 never relied it.</p> <p>18 MS. PARFITT: Okay, guys --</p> <p>19 MS. BROWN: So if we want to ask 20 questions --</p> <p>21 THE REPORTER: Excuse me.</p> <p>22 MS. PARFITT: I'm not having him -- 23 whoa, whoa.</p> <p>24 (A discussion was held off the record.)</p> <p>25 BY MS. PARFITT:</p>
<p style="text-align: center;">Page 439</p> <p>1 that would have preceded any litigation.</p> <p>2 And it states: "Bill, I came across 3 this paper this morning published in the April 4 2004 journal Human Reproduction, an official 5 journal of the European Society for Human 6 Reproduction and Embryology. It offers some 7 compelling evidence in support of the migration 8 hypothesis. Combine this evidence with the theory 9 that the talc deposition on the ovarian epithelium 10 initiates epithelium inflammation, which leads to 11 epithelium carcinogenesis, and you have a 12 potential formula for NTP classifying talc as a 13 causative agent in ovarian cancer."</p> <p>14 Now, did I read that correctly?</p> <p>15 A Yes.</p> <p>16 Q So let me -- because counsel wants you 17 to hold it, let me have you take --</p> <p>18 MS. BROWN: Well, only if you're going 19 to ask him questions about it.</p> <p>20 MS. PARFITT: I am. I am. But I can't 21 do both.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q I've got to hand it to you because she 24 says she wants you to hold it.</p> <p>25 And attached to that is the article.</p>	<p style="text-align: center;">Page 441</p> <p>1 Q Dr. Diette, I'm simply referring to the 2 cover letter.</p> <p>3 A Oh.</p> <p>4 Q And that's all, just one page. Do you 5 see that?</p> <p>6 A I do.</p> <p>7 Q Okay. And that's what I just read into 8 the record. Do you see that?</p> <p>9 A I do.</p> <p>10 Q Okay. And do you see back in 2004, 11 there was information with regard -- and I have to 12 see it, I can't be -- sorry. I can't memorize it 13 either.</p> <p>14 So you see back in 2004, the company's 15 being advised that there is indeed literature 16 compelling evidence in support of a migration 17 hypothesis --</p> <p>18 MS. BROWN: Object.</p> <p>19 BY MS. PARFITT:</p> <p>20 Q -- that was shared between the two 21 companies.</p> <p>22 Did J&J ever share with you this 23 document that they had in their company files that 24 they had support -- actually compelling evidence 25 of support of the migration hypothesis?</p>

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<p>1 MS. BROWN: Objection to the speech, 2 lacks foundation. I also believe that's an Imerys 3 document.</p> <p>4 THE WITNESS: So a few things, right. 5 So one is I -- I've never seen that, so I don't 6 even know what it is. I don't know who those 7 people are. That -- I don't know what their 8 qualifications are to consider something to be 9 compelling evidence or if that's the word that was 10 used.</p> <p>11 BY MS. PARFITT:</p> <p>12 Q Mm-hmm.</p> <p>13 A I have not seen the article that's 14 attached to the back of it.</p> <p>15 Q Okay.</p> <p>16 A But it's hard to say much about that.</p> <p>17 Q Yes.</p> <p>18 Let me show you what we will have marked 19 as Exhibit 34, and I'll represent to you it's an 20 article by Roberta Ness, "Possible Role of Ovarian 21 Epithelial Inflammation."</p> <p>22 (Diette Exhibit No. 34 was marked 23 for identification.)</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Have you seen this article before?</p>	<p>1 it -- that this -- is this an e-mail or a fax? It 2 has something from Ness's paper or Ness's paper 3 has something from this --</p> <p>4 BY MS. PARFITT:</p> <p>5 Q They have something from Ness's paper, 6 correct.</p> <p>7 MS. BROWN: Well, objection.</p> <p>8 THE WITNESS: But this is --</p> <p>9 MS. BROWN: Don't -- don't speculate. 10 No one wants you to guess.</p> <p>11 MS. PARFITT: So we won't talk about --</p> <p>12 MS. BROWN: Just wait for a question, 13 and we'll do the best we can.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q Okay. Do you see on the first page of 16 Dr. Ness's article, in the left-hand column 17 towards the bottom, where Dr. Ness states: 18 "Inflammation entails cell damage, oxidative 19 stress, and elevations of cytokines and 20 prostaglandins, all of which may be mutagenic. 21 The possibility that inflammation is a 22 pathophysiological contributor to the development 23 of ovarian cancer suggests a directed approach to 24 future research."</p> <p>25 Do you see that?</p>
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<p>1 A I have.</p> <p>2 Q Okay. Do you see on page 2 --</p> <p>3 MS. PARFITT: Where is the other one? 4 (Counsel conferring.)</p> <p>5 BY MS. PARFITT:</p> <p>6 Q If I could -- you have in front of you 7 the Zazenski -- thank you.</p> <p>8 Okay. Now, do you see the graph, I'll 9 call it, it's the chart there on Zazenski? And 10 then look at Figure No. 1. Do you see that, 11 " Inflammation is a common mechanism underlying 12 ovarian cancer"?</p> <p>13 A I do.</p> <p>14 Q Okay. And do you see that -- you can 15 look at it. Do you see that that's the same 16 figure in the Zazenski letter as it is in 17 Dr. Ness's letter? Do you see that?</p> <p>18 MS. BROWN: Objection to the form, lacks 19 foundation.</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Or Dr. Ness's report.</p> <p>22 MS. BROWN: Same objection.</p> <p>23 THE WITNESS: I mean it -- it looks the 24 same.</p> <p>25 But what does that mean? Does that mean</p>	<p>1 A I do.</p> <p>2 Q Okay. Do you agree with that statement?</p> <p>3 MR. LOCKE: Objection.</p> <p>4 MS. BROWN: Objection to the form.</p> <p>5 THE WITNESS: So, I haven't read this 6 article in a while. It is from about 20 years 7 ago. And so I don't know if 20 years ago that was 8 a reasonable thing to consider, but it sounds as 9 if 20 years have gone by and this still hasn't 10 been proven. And so whether I agree with it still 11 now, I'm not sure. I'm not sure if it would be a 12 fruitful endeavor or not.</p> <p>13 BY MS. PARFITT:</p> <p>14 Q Does biological plausibility mean that 15 something must be proven?</p> <p>16 MR. LOCKE: Objection. Asked --</p> <p>17 MS. BROWN: Objection. Asked and 18 answered.</p> <p>19 THE WITNESS: It doesn't mean that 20 it's -- that it's been proven, but it's one of the 21 ways to provide supportive information about 22 whether or not an observed association is causal 23 or not.</p> <p>24 BY MS. PARFITT:</p> <p>25 Q Okay. So you agree that you do not --</p>

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<p>1 one does not need to prove mechanism in order to 2 find causality, correct? 3 A I need to prove -- 4 MR. LOCKE: Objection. 5 MS. BROWN: Objection to form. 6 THE WITNESS: Sorry. Wow, sorry. 7 BY MS. PARFITT: 8 Q We had a chorus. 9 A Yeah. 10 No, you don't need to prove it, but 11 it's -- 12 Q You don't need to prove mechanism. 13 A You don't need to prove mechanism in 14 order to establish causation, but it's hard to get 15 there for a low observed risk if you don't have 16 biological plausibility. 17 Q I'll take that back -- yes, I'm sorry. 18 I hope I didn't ask you this before, but 19 is biological plausibility the same as proof of 20 mechanism? 21 MR. LOCKE: Objection. 22 MS. BROWN: Objection to the form of the 23 question. 24 THE WITNESS: Proof of -- I don't know 25 if I would use the -- so "proof of mechanism"</p>	<p>1 exposure can lead to the outcome that you're 2 interested in. 3 BY MS. PARFITT: 4 Q Okay. Doctor, from your review of the 5 peer-reviewed scientific literature, have you read 6 where study authors who have actually looked at 7 the issue of migration and other biological 8 plausible methods by which talc can get to the 9 ovary? 10 A I guess -- 11 MS. BROWN: I object. I don't 12 understand. 13 THE WITNESS: I mean I've looked at both 14 the human and the animal studies that I could find 15 cited on the topic. And -- and you said that 16 talc -- talc can get to the ovary? 17 BY MS. PARFITT: 18 Q Mm-hmm. 19 A Because, you know, some are not talc, 20 right. There -- there are other kinds of 21 particles or substances. And so I've looked at 22 both the animal and the human studies that I could 23 find. 24 Q And in those studies that you have 25 reviewed, have you seen where those authors who</p>
<p style="text-align: center;">Page 447</p> <p>1 sounds like a term in a way, but maybe not one 2 that's in my vocabulary. Like people talk about 3 proof of concept just as a study design, which -- 4 I don't know if that's the same thing, but I 5 don't -- I don't -- I don't know "proof of 6 mechanism" as a -- as a term. 7 (Counsel conferring.) 8 MS. PARFITT: Let's go off the record 9 for a moment. 10 THE VIDEOGRAPHER: The time is 5:30 p.m. 11 We're going off the record. 12 (Recess.) 13 THE VIDEOGRAPHER: The time is 5:37 p.m. 14 and we're back on the record. 15 BY MS. PARFITT: 16 Q Doctor, what is your definition of 17 "biological plausibility"?" 18 MS. BROWN: Objection. Asked and 19 answered. 20 THE WITNESS: I don't have a single one. 21 I think it's in my report somewhere, or at least 22 what I tried to capture from Bradford Hill's 23 statement, but in a general sense, you know, being 24 evidence that whatever -- if we're talking about 25 an exposure, that there is a pathway by which that</p>	<p style="text-align: center;">Page 449</p> <p>1 have studied the issue of biological plausibility 2 and mechanisms by which talc can get to the ovary 3 have concluded in their articles that that is 4 indeed a pathway? 5 MS. BROWN: Objection. 6 MR. LOCKE: Objection. 7 MS. BROWN: Misstates his testimony and 8 the documents. 9 THE WITNESS: That there is -- well, I 10 guess we've got to -- we'd have to look at each 11 one, right. Because, I mean, there's ones like, 12 for example, you know, if we're talking about 13 humans, like where women are basically placed 14 upside down in a -- in an usual position and 15 having something deposited directly into their 16 vagina, and then that may or may not then migrate 17 to their ovaries, but that wouldn't be the same as 18 saying that's a plausible mechanism for applying 19 something to the perineum and then finding it in 20 the ovaries. 21 And then I just want to -- I don't have 22 a lot to say about it, but I would just say with 23 the animals, it looks like certain animals that 24 application of -- of particles does, and then in 25 others it doesn't migrate. And then so I --</p>

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<p>1 took that as kind of mixed evidence that even in 2 animals, assuming that there is an appropriate 3 animal model, that they're not getting the same 4 answer based on which animal it is.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q Does exposure of a disease have to be 7 proven in order to have a biologically plausible 8 mechanism?</p> <p>9 MS. BROWN: Objection to the form.</p> <p>10 MR. LOCKE: Objection.</p> <p>11 THE WITNESS: So I don't know if I 12 understand that. So are you saying that -- so say 13 it again. I'm sorry.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q Sure. It was probably a bad question.</p> <p>16 MS. BROWN: The realtime --</p> <p>17 BY MS. PARFITT:</p> <p>18 Q Does one need -- does a scientist need 19 to know the precise mechanism in order to 20 determine whether or not it's biologically 21 plausible for some toxin to cause some disease?</p> <p>22 MS. BROWN: Objection to the form.</p> <p>23 MR. LOCKE: Objection.</p> <p>24 THE WITNESS: So "precise" might be a -- 25 a term that matters, but -- but it can be a work</p>	<p>1 MS. BROWN: Objection to the form.</p> <p>2 MR. LOCKE: Objection.</p> <p>3 THE WITNESS: So I -- I looked -- for 4 all the things that we talked about -- I don't 5 know which ones we're talking about now in terms 6 of the epidemiology studies.</p> <p>7 BY MS. PARFITT:</p> <p>8 Q Correct.</p> <p>9 A So I've seen some that do and some that 10 don't propose that. Some I think are -- and I'm 11 paraphrasing -- but are sort of more along the 12 lines of we just don't know or there's a lot more 13 work needed, and -- and things of that sort.</p> <p>14 Q Are there a lot on the lines of 15 migration of talc -- excuse me.</p> <p>16 Are there a lot of articles that you've 17 reviewed where they have -- authors have stated 18 that talc can migrate to the ovaries?</p> <p>19 A I wouldn't say --</p> <p>20 MS. BROWN: Objection.</p> <p>21 THE WITNESS: I wouldn't say a lot. And 22 I haven't seen anything as strong as that FDA 23 statement, you know, I mean, where -- where 24 there's some, you know, certainty that is coupled 25 with that kind of a statement.</p>
<p style="text-align: center;">Page 451</p> <p>1 in progress in the sense that you can have some 2 information or no information or lots of 3 information. So there can be, you know, quite a 4 spectrum of information you would have about the 5 plausibility.</p> <p>6 BY MS. PARFITT:</p> <p>7 Q I think what I'm asking is, does the 8 mechanism of disease need to be proven in order to 9 find causality?</p> <p>10 MS. BROWN: Objection to the form.</p> <p>11 THE WITNESS: I -- I think we keep doing 12 this over and over, because this -- I think -- I 13 think this is the same -- unless it's meant to be 14 different, like I don't know how to answer that 15 differently. It's -- you know, obviously it 16 doesn't have to be proven, but it certainly is 17 important. And when you have a very small 18 estimated risk, then it becomes even more 19 important.</p> <p>20 BY MS. PARFITT:</p> <p>21 Q Okay. Have you seen in the literature 22 that you've reviewed numerous authors who have 23 proposed a biologically plausible mechanism by 24 which talcum powder products can cause ovarian 25 cancer?</p>	<p style="text-align: center;">Page 453</p> <p>1 BY MS. PARFITT:</p> <p>2 Q But you've certainly seen where the 3 authors have opined and discussed biologically 4 plausible mechanism by -- mechanisms by which 5 talcum powder products can cause ovarian cancer.</p> <p>6 MR. LOCKE: Objection.</p> <p>7 MS. BROWN: Objection. Continues to 8 misstate his testimony.</p> <p>9 THE WITNESS: What's -- what's different 10 about that than what I already answered?</p> <p>11 BY MS. PARFITT:</p> <p>12 Q Well, what I'm trying to get at is, 13 whether or not you believe it or don't believe it, 14 I'm simply trying to understand from you whether 15 or not in your read of the scientific literature 16 have you seen where authors who have actually 17 studied this topic where they have determined and 18 written in their reports that there are 19 biologically plausible mechanisms by which talc 20 can migrate to the ovaries?</p> <p>21 MR. LOCKE: Objection.</p> <p>22 MS. BROWN: No, objection. He's 23 answered this a hundred times, and it's --</p> <p>24 BY MS. PARFITT:</p> <p>25 Q And if it's no, then it's no. If you've</p>

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<p>1 seen it, you've seen it. If you dispute it, you 2 dispute it.</p> <p>3 A Well, it's -- it's none of those. 4 But you just said reports. Does that -- 5 are we now talking about expert reports or are -- 6 Q No. 7 A -- we still talking about -- 8 Q No, we're still talking -- 9 A Okay. We're talking about like 10 peer-reviewed publications? 11 Q That's right. 12 A So I've seen a mixture, yeah. It's like 13 when you look at the epi literature, I mean the -- 14 the way I read it is like -- is, you know, an 15 epidemiologist is supposed to be able to get up to 16 speed without becoming an expert in absolutely 17 everything, right? 18 So I already told you I'm not a cancer 19 biologist, but I do count on the authors to set 20 the stage with the introduction and then interpret 21 their findings and the discussion and sort of take 22 us at least partway towards there. 23 So even the recent meta-analysis, if you 24 look at Berge or Burge (phonetic), however you say 25 that, and Penninkilampi, you know, they talk about</p>	<p>1 probably means one thing in the world in general. 2 I think if you're talking about Rothman, yeah, 3 Rothman has written about that -- 4 BY MS. PARFITT: 5 Q Right. 6 A -- and about it being simply a 7 competition of sort of counting those that are 8 significant and those that are not. 9 I didn't see that. I think the way I 10 described it I think was -- was the way I 11 approached it, which said some of the information 12 that's available is that some of the studies were 13 statistically significant and some weren't. It's 14 informative, but it's not literally the same as 15 saying, I'm just going to count them up and stop 16 there. 17 Q Because that would be improper, correct? 18 MS. BROWN: Objection. 19 THE WITNESS: To only do that, yes. 20 BY MS. PARFITT: 21 Q Okay. All right. Let me ask a couple 22 of question -- questions. 23 What is the minimal level of exposure to 24 cigarette smoke in terms of cigarette smoke at 25 home that's necessary to cause lung cancer?</p>
<p style="text-align: center;">Page 455</p> <p>1 there -- there being uncertainty about the 2 mechanism. So I'm just saying even as recently as 3 the -- the very latest meta-analysis, there's 4 uncertainty expressed. 5 Q Do you see uncertainty being expressed 6 by biologically plausible mechanisms? 7 MS. BROWN: Objection. 8 THE WITNESS: Well, I don't know if 9 they're plausible or not. I mean that's the whole 10 point, right? You know, I mean you can say 11 something, but it doesn't make it true. 12 BY MS. PARFITT: 13 Q You reminded me of something. In your 14 review of the various case-control studies, did 15 you exercise a process known as vote counting? 16 MS. BROWN: Objection. 17 THE WITNESS: No. 18 BY MS. PARFITT: 19 Q You did not? 20 A I did not. 21 Q That would be improper to do so, 22 correct? 23 MS. BROWN: Objection. 24 THE WITNESS: Well, if we're talking -- 25 so I guess, just to be clear, so vote counting</p>	<p style="text-align: center;">Page 457</p> <p>1 MS. BROWN: Form. 2 THE WITNESS: I do not know. 3 BY MS. PARFITT: 4 Q Okay. What is the minimal level of 5 exposure to asbestos fibers inhaled that is 6 sufficient to cause ovarian cancer? 7 MS. BROWN: Form. 8 MR. LOCKE: Objection. 9 THE WITNESS: We -- we did that before. 10 I don't -- I don't have any more information than 11 what I did, like meaning, you know, I have some -- 12 some guideposts like the -- the Whitnum 40 13 fiber/cc years of -- of crocidolite, which did not 14 seem to be adequate to cause it. 15 And then, you know, when we looked at 16 the IARC, I didn't -- even when you and I looked 17 at it together, I didn't see information that 18 talked about what dose would be required. 19 BY MS. PARFITT: 20 Q Okay. Same question. What's the 21 minimal level of exposure to asbestos fibers 22 inhaled that is sufficient to cause mesothelioma? 23 MS. BROWN: Objection. 24 MR. LOCKE: Objection. 25 THE WITNESS: Pleural or peritoneal</p>

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<p>1 or --</p> <p>2 BY MS. PARFITT:</p> <p>3 Q Pleural.</p> <p>4 A So the -- so the amount for pleural</p> <p>5 mesothelioma is -- and did you say fiber type or</p> <p>6 you didn't mention fiber type?</p> <p>7 Q I didn't. I just said fibers.</p> <p>8 A Okay. So it would matter fiber type.</p> <p>9 If it's chrysotile predominant, then above 200 to</p> <p>10 400 fiber/cc years would be, you know, one</p> <p>11 estimate of the dose. If it's crocidolite, you</p> <p>12 know, you could divide that by 500. And if it's</p> <p>13 amosite, by a hundred, and other amphiboles, you</p> <p>14 know, somewhere in between those sort of ranges.</p> <p>15 And so, you know, I think for</p> <p>16 amphiboles, above like the single digit fiber/cc</p> <p>17 years, and for chrysotile, above the couple of</p> <p>18 like 200 to 400 fiber/cc years.</p> <p>19 Q Is it true that the dose-response curve</p> <p>20 for any genotoxic carcinogen intersects with zero?</p> <p>21 MS. BROWN: Objection to the form.</p> <p>22 THE WITNESS: Well, there's got to be a</p> <p>23 zero point if there's zero exposure, right? If</p> <p>24 there's literally zero exposure, then there can't</p> <p>25 be -- there can't be a signal from that zero.</p>	<p>1 Q Okay. You criticize the plaintiffs' experts for what you called a muted examination of the case-control studies that they reviewed.</p> <p>2 Do you remember saying that in your report?</p> <p>3 A I don't remember that word, but it's -- it makes a lot of sense to me.</p> <p>4 Q Okay. Where in your report did you set forth all of the limitations and weaknesses of the cohort studies of talcum -- talcum powder products and asbestos -- and ovarian cancer?</p> <p>5 A Well, there's a bunch, right. So --</p> <p>6 Q Well, where did you --</p> <p>7 A I'm telling you.</p> <p>8 Q -- provide us in your report that information --</p> <p>9 A I'm telling you.</p> <p>10 MS. BROWN: Let him finish --</p> <p>11 THE WITNESS: I understand your question.</p> <p>12 MS. BROWN: -- and answer your question.</p> <p>13 THE WITNESS: So one of the criticisms, which I think is pretty profound, which is the lack of a validated measure of talcum powder</p>
<p style="text-align: center;">Page 459</p> <p>1 BY MS. PARFITT:</p> <p>2 Q What does the -- what does it mean if a</p> <p>3 dose-response curve intersects zero?</p> <p>4 MS. BROWN: Form.</p> <p>5 BY MS. PARFITT:</p> <p>6 Q What does that mean?</p> <p>7 A It's not a term that's familiar. I</p> <p>8 mean, it's just -- I'm not sure -- if you've got</p> <p>9 zero exposure, you can't have any outcome from</p> <p>10 that. So I -- I assume that's what we're talking</p> <p>11 about is just like a -- like a no exposure</p> <p>12 estimate.</p> <p>13 If you're talking about like -- the</p> <p>14 place I've seen people talk about it is like with</p> <p>15 low doses of things and what happens, you know,</p> <p>16 below the concentration or the level at which</p> <p>17 there's known effects, then what happens between</p> <p>18 there and zero. But if it's literally zero -- if</p> <p>19 there's literally zero exposure, it's got to be</p> <p>20 zero outcome.</p> <p>21 (Counsel conferring.</p> <p>22 BY MS. PARFITT:</p> <p>23 Q Okay. You reviewed the cohort studies</p> <p>24 in this case, correct?</p> <p>25 A The three -- three cohort studies.</p>	<p style="text-align: center;">Page 461</p> <p>1 exposure that could have someone estimate whether or not somebody is exposed at all or whether or not there's a dose-response, and that applies to all the studies, right. So that's uniformly applied to whether they're case-control studies or -- or cohort studies.</p> <p>2 BY MS. PARFITT:</p> <p>3 Q That would be the exposure misclassification.</p> <p>4 MS. BROWN: Objection.</p> <p>5 THE WITNESS: No, no, no. So it would be -- you could misclassify it, but it -- but what I'm talking about is, that in order to measure an exposure, you need a valid measure of that exposure. That doesn't exist, or at least if it exists, it hasn't been employed in the -- in the published literature. And that applies to the cohort studies and the case controls.</p> <p>6 What I -- what I did was I tried to actually not denigrate any of the study designs. I thought that was appalling. You know, when you talk about where this came from, you know, to sort of single out the cohort studies repeatedly by the -- by the plaintiffs' expert and say, you know, This is a terrible design, or this is</p>

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<p>1 terrible for whatever reason, it's extraordinary, 2 and it's -- to me it's unprecedented for -- for 3 epidemiologists or other healthcare professionals 4 to sort of look at cohort studies and find that 5 those are so awful, and that case-control studies 6 are suddenly so sturdy. It doesn't make any 7 sense.</p> <p>8 So -- so for me, like the task wasn't 9 really so much -- I wasn't trying to criticize 10 either form of the study, but just to point out 11 realistically that there are biases, that there 12 are confounding issues, and -- and things of 13 that -- that sort.</p> <p>14 BY MS. PARFITT:</p> <p>15 Q In your review of the literature for 16 purposes of your opinions today, did you see 17 evidence from any of the studies that you read 18 that there was a dose-response associated between 19 talcum powder products and ovarian cancer?</p> <p>20 A So in total, no. In a couple of 21 studies, there are purported dose-response 22 findings, right. So the latest Cramer study is an 23 example. There may have been another, but there 24 are so many studies that show absolutely the 25 opposite, meaning either flat dose-response,</p>	<p>1 Q Okay. So you would agree with me there 2 are studies in the peer-reviewed literature that 3 have demonstrated a dose-response between talcum 4 powder products and ovarian cancer?</p> <p>5 MS. BROWN: Objection --</p> <p>6 MR. LOCKE: Objection.</p> <p>7 MS. BROWN: -- to the form.</p> <p>8 MS. PARFITT: Let him answer, please.</p> <p>9 MS. BROWN: I get to object.</p> <p>10 THE WITNESS: I think just a couple.</p> <p>11 MS. PARFITT: Let's go off the record.</p> <p>12 THE VIDEOGRAPHER: The time is 5:53 p.m. 13 We're going off the record.</p> <p>14 (Recess.)</p> <p>15 THE VIDEOGRAPHER: The time is 5:58 p.m. 16 We're back on the record.</p> <p>17 MR. HEASLIP: Can we go off for one 18 moment? I apologize.</p> <p>19 THE VIDEOGRAPHER: The time is 5:58 p.m. 20 We're going back off the record.</p> <p>21 (A discussion was held off the record.)</p> <p>22 THE VIDEOGRAPHER: The time is 5:59 p.m. 23 We're back on the record.</p> <p>24 CROSS-EXAMINATION</p> <p>25 BY MR. FINCH:</p>
<p style="text-align: center;">Page 463</p> <p>1 upside down dose-response, zig-zaggy, haphazard 2 dose-response. So I would say looking at the 3 evidence in total, it's a mess. I mean it's 4 certainly not supportive.</p> <p>5 And I'll tell you the truth, if you go back 6 to -- like to 2000 -- and I know we're in a hurry, 7 so I will try to talk a little faster -- but the 8 Rothman -- the Rothman review, at least up until 9 2000, they -- they plotted out all the 10 dose-response they found, and they found an 11 inverse relationship overall, which is one of the 12 things they found to be inconsistent with there 13 being causation.</p> <p>14 So I think, you know, from 1982, when 15 the first case-control study was published, to 16 2000, at least when it's assessed by Rothman and 17 his colleagues, is actually upside down.</p> <p>18 Q What about Terry? Terry in 2013 19 reported a dose-response, did they not?</p> <p>20 MS. BROWN: Objection to the form.</p> <p>21 THE WITNESS: I don't remember what they 22 showed. I don't -- I don't doubt you, but I -- 23 but there's just -- there's a couple of studies 24 that have demonstrated that.</p> <p>25 BY MS. PARFITT:</p>	<p style="text-align: center;">Page 465</p> <p>1 Q Good afternoon, Dr. Diette. My name is 2 Nate Finch. You and I have met before, correct?</p> <p>3 A Yes.</p> <p>4 Q You were asked a question about the 5 dose-response curve to genotoxic carcinogens. Do 6 you recall that question?</p> <p>7 A I do.</p> <p>8 Q And your answer was something to the 9 effect of if the dose was zero, then it would be 10 an intersection of zero.</p> <p>11 Do you recall that answer?</p> <p>12 A Something like that.</p> <p>13 Q All right. I want you to assume that 14 we're talking about a dose-response curve where 15 there is a positive dose, not a dose of zero. 16 Your typical dose-response curve looks something 17 like this (indicating), right, with dose on the 18 X-axis and response on the Y-axis?</p> <p>19 A You can draw it that way.</p> <p>20 MS. MILLER: Is that an exhibit?</p> <p>21 MR. FINCH: You can mark it as an 22 exhibit. It's got somebody's notes on the back of 23 it, but...</p> <p>24 BY MR. FINCH:</p> <p>25 Q Isn't it true, Dr. Diette, that for a</p>

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<p>1 genotoxic carcinogen where there is a positive 2 dose, the dose-response curve always intersects 3 with zero?</p> <p>4 MS. BROWN: Objection to form.</p> <p>5 THE WITNESS: That's not something that 6 I say. I mean I don't -- people may say that, but 7 I -- I think when we're talking about -- like zero 8 is zero, right. So zero exposure means zero risk.</p> <p>9 BY MR. FINCH:</p> <p>10 Q I'm not -- I'm not talking about zero.</p> <p>11 MS. BROWN: Wait, let him finish, 12 please.</p> <p>13 THE WITNESS: Well, I know. That's what 14 I'm talking about when I -- when I hear that 15 question.</p> <p>16 BY MR. FINCH:</p> <p>17 Q All right. So if someone were to 18 testify when you're talking about a genotoxic 19 carcinogen where there is a positive exposure, 20 there -- the dose-response curve intersects with 21 zero, meaning that there -- isn't it true that 22 that means that there -- at any level of exposure, 23 there's an excess risk of cancer for a genotoxic 24 carcinogen?</p> <p>25 MS. BROWN: Objection to the form.</p>	<p>1 about the sort of mechanical process of writing 2 your report. Do you remember that?</p> <p>3 A I do.</p> <p>4 Q And to be clear, Doctor, did you write 5 every substantive word of the expert report that 6 we've marked as an exhibit in this case?</p> <p>7 A To the -- yes, everything substantive.</p> <p>8 Q Did MSA or Medical Science Affiliates 9 make any substantive contributions to your expert 10 report in this proceeding?</p> <p>11 A No.</p> <p>12 Q You spoke a little bit earlier today 13 about some administrative support that you 14 received from MSA. Do you remember that?</p> <p>15 A I do.</p> <p>16 Q And tell us what you meant by 17 "administrative support."</p> <p>18 A So by "administrative support," I meant, 19 you know, gathering -- like collating materials 20 for me, helping to -- to format the report, you 21 know, putting -- you know, putting the reference 22 citations in correctly. You know, creating the -- 23 the list of reliance documents at the end. You 24 know, things of that sort. And then -- and then 25 generating invoices.</p>
<p style="text-align: center;">Page 467</p> <p>1 THE WITNESS: So I don't know. That may 2 be part of some field that's not my field. But I 3 -- but in the fields that I work in, I recognize 4 that you need a certain amount of exposure in 5 order to cause a disease, including cancer.</p> <p>6 BY MR. FINCH:</p> <p>7 Q Okay. But you cannot dispute that 8 genotoxic carcinogens, the dose-response curve 9 intersects with zero. You haven't studied that 10 issue; is that correct?</p> <p>11 MR. LOCKE: Objection.</p> <p>12 MS. BROWN: Objection to the form.</p> <p>13 THE VIDEOGRAPHER: Seven hours.</p> <p>14 MS. BROWN: You're done. Wait.</p> <p>15 THE WITNESS: So I mean, my answer is 16 the same as it was before.</p> <p>17 MS. BROWN: I can ask from here. (A discussion was held off the record.)</p> <p>19 CROSS-EXAMINATION</p> <p>20 BY MS. BROWN:</p> <p>21 Q Good evening, Dr. Diette.</p> <p>22 A Hi.</p> <p>23 Q Just a couple of quick questions, and we 24 will get you on your way.</p> <p>25 We had some discussion earlier today</p>	<p style="text-align: center;">Page 469</p> <p>1 I'm trying to think what else. 2 Whatever -- whatever I said earlier was the -- was 3 the full list, I think.</p> <p>4 Q You also mentioned earlier today 5 receiving some editorial support from the folks at 6 MSA. Tell us what you meant by that.</p> <p>7 A So to look for typos or -- I gave the 8 example of like where I had a really long 9 paragraph, and they broke it up with bullets to 10 make it look more readable, that sort of thing, 11 and -- and just making this actually have the 12 physical appearance that it does.</p> <p>13 Q Did MSA provide anything other than 14 administrative formatting type support in 15 connection with your report in this case?</p> <p>16 A No.</p> <p>17 Q If someone were to suggest that the 18 opinions in your expert report are not entirely 19 your own, would that be the truth?</p> <p>20 A I'm sorry. I was reading that going by, 21 and I didn't listen.</p> <p>22 Q Sure. If someone were to suggest that 23 some of the opinions in your expert report are not 24 entirely your own, would that be the truth?</p> <p>25 A No.</p>

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<p>1 MS. PARFITT: Objection. 2 THE WITNESS: They're -- they're all my 3 opinions. 4 BY MS. BROWN: 5 Q If someone were to suggest that MSA 6 wrote some of the substantive pieces of your 7 report, would that be the truth? 8 MS. PARFITT: Objection. 9 THE WITNESS: No. 10 MS. BROWN: Thanks very much for your 11 time, Dr. Diette. I have no further questions. 12 MS. PARFITT: Anybody? No. Thank you. 13 Dr. Diette, thank you very much. 14 THE WITNESS: Thank you. 15 MS. PARFITT: I appreciate it. 16 THE VIDEOGRAPHER: The time is 6:04 17 p.m., April 9th, 2019. Going off the record, 18 completing the videotaped deposition. 19 (Whereupon, the deposition of 20 GREGORY B. DIETTE, M.D. was 21 concluded at 6:04 p.m.) 22 23 24 25</p>	<p>1 INSTRUCTIONS TO WITNESS 2 Please read your deposition over carefully and 3 make any necessary corrections. You should state 4 the reason in the appropriate space on the errata 5 sheet for any corrections that are made. 6 After doing so, please sign the errata sheet 7 and date it. 8 You are signing same subject to the changes 9 you have noted on the errata sheet, which will be 10 attached to your deposition. It is imperative 11 that you return the original errata sheet to the 12 deposing attorney within thirty (30) days of 13 receipt of the deposition transcript by you. If 14 you fail to do so, the deposition transcript may 15 be deemed to be accurate and may be used in court. 16 17 18 19 20 21 22 23 24 25</p>
<p>1 Page 471 2 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER 3 The undersigned Certified Shorthand Reporter 4 does hereby certify: 5 That the foregoing proceeding was taken before 6 me at the time and place therein set forth, at 7 which time the witness was duly sworn; That the 8 testimony of the witness and all objections made 9 at the time of the examination were recorded 10 stenographically by me and were thereafter 11 transcribed, said transcript being a true and 12 correct copy of my shorthand notes thereof; That 13 the dismantling of the original transcript will 14 void the reporter's certificate. 15 In witness thereof, I have subscribed my name 16 this date: April 10, 2019. 17 18 _____ 19 LESLIE A. TODD, CSR, RPR 20 Certificate No. 5129 21 (The foregoing certification of 22 this transcript does not apply to any 23 reproduction of the same by any means, 24 unless under the direct control and/or 25 supervision of the certifying reporter.)</p>	<p>1 ----- 2 E R R A T A 3 ----- 4 PAGE LINE CHANGE 5 _____ 6 REASON: _____ 7 _____ 8 REASON: _____ 9 _____ 10 REASON: _____ 11 _____ 12 REASON: _____ 13 _____ 14 REASON: _____ 15 _____ 16 REASON: _____ 17 _____ 18 REASON: _____ 19 _____ 20 REASON: _____ 21 _____ 22 REASON: _____ 23 _____ 24 REASON: _____ 25</p>

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1 ACKNOWLEDGMENT OF DEPONENT

2 I, _____, do hereby
3 certify that I have read the foregoing pages, and
4 that the same is a correct transcription of the
5 answers given by me to the questions therein
6 propounded, except for the corrections or changes
7 in form or substance, if any, noted in the
8 attached Errata Sheet.

9

10

11 GREGORY B. DIETTE, M.D. DATE

12

13

14 Subscribed and sworn to
15 before me this
16 ____ day of _____, 20 ____.
17 My commission expires: _____

18

19 _____
20

21

22

23

24

25